

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

September 12, 2006

7:00 P.M.

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A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE - Arielle Geiwitz, a rising seventh-grade student at Toano Middle School	
D. PRESENTATIONS	
1. Recognition - Environmental Single-Family Award - Affordable Homes, LLC-I	
2. Tropical Storm Ernesto Update	
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	b. A resolution authorizing a lease option of approximately 1,750 square feet of real property, including air space, to Cingular Wireless, a Delaware Limited Liability Company, on the parcel of land identified as Parcel No. 4721500001 on the JCC Tax Map and more commonly known as 5087 John Tyler Highway, Williamsburg, Virginia 23185	265
	c. A resolution authorizing the lease option of approximately 6400 square feet of real property, including air space, to Cingular Wireless, a Delaware Limited Liability Company, on the parcel of land identified as Parcel No. 3630100023 on the JCC Tax Map and more commonly known as 3201 Monticello Avenue, Williamsburg, Virginia 23188	269
	d. A resolution authorizing the lease of approximately 1080 square feet of real property and air space to Nextel Communications on the 280' tower located on the parcel of land identified as Tax Parcel No. 461-0A-00-002 on the City of Williamsburg Tax Map and more commonly known as 1118 Ironbound Road in the City of Williamsburg	273
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I. PUBLIC COMMENT

J. REPORT OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1.	Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia	
	a. Board of Equalization	
	b. Colonial Services Board	
	c. Peninsula Agency on Aging	
2.	Consideration of a personnel matter involving the evaluation of the County Attorney pursuant to Section 2.2-3711(A)(1) of the Code of Virginia	
3.	Consideration of an acquisition of a parcel/parcels of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia	

M. ADJOURNMENT

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF JUNE 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

Mr. Goodson requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE - Sydney Giblin, a rising junior at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Recognition - Jamestown High School Envirothon Team

Dr. Wayne Moyer of the Colonial Soil and Water Conservation District introduced the Jamestown High School Envirothon Team, which then presented its award-winning presentation on the effects of climate change on water quality in the Chesapeake Bay.

Mr. Goodson recognized the Jamestown High School Envirothon Team for representing the County at the State Envirothon competition.

Mr. Ed Overton and Dr. Moyer presented certificates of recognition to the Envirothon Team and its coaches.

E. PUBLIC COMMENT

1. Mr. Mike Brown, 8105 Richmond Road, commented on Rural Lands Committee and the Citizens Committee.

2. Mr. R.M. Hazelwood, Jr., 301 Old Stage Road, commented on rural lands and a recent map of Forge Road in the Virginia Gazette.

3. Mr. Ed Oyer, 139 Indian Circle, spoke on the Battle of Midway and investing.

F. CONSENT CALENDAR

Mr. McGlennon pulled Item F-7.

Mr. Harrison made a motion to adopt the items on the consent calendar as amended.

Mr. Bradshaw noted amendments for Items F-1a and F-4.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5).
NAY: (0).

1. Minutes -
 - a. May 9, 2006, Regular Meeting
 - b. May 23, 2006, Regular meeting
2. Strengthening Families Program - Historic Triangle Substance Abuse Coalition Grant

RESOLUTION

STRENGTHENING FAMILIES PROGRAM -

HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION GRANT

WHEREAS, James City County has received a grant to implement the Strengthening Families Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

Historic Triangle Substance Abuse Coalition	<u>\$1,724</u>
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Expenditure:

Strengthening Families Program	<u>\$1,724</u>
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3. Adoption of VRS Retiree Health Insurance Credit Program and the Deferred Compensation Match Plan

RESOLUTION

ADOPTION OF THE DEFERRED COMPENSATION MATCH PLAN

WHEREAS, James City County (the "County") has employees rendering valuable services; and

WHEREAS, the establishment of a 401 money purchase retirement plan benefits employees by providing funds for retirement and funds for their beneficiaries in the event of death; and

WHEREAS, the County desires that its 401 money purchase retirement plan be administered by the ICMA Retirement Corporation and that the funds held in such plan be invested in the Vantage Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes a 401 money purchase retirement plan (the "Plan") in the form of an ICMA Retirement Corporation Governmental Money Purchase Plan & Trust, pursuant to the specific provisions of the Adoption Agreement, which shall be maintained for the exclusive benefit of eligible employees and their beneficiaries.

BE IT FURTHER RESOLVED that the County hereby executes the Declaration of Trust of the Vantage Trust intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the County, if the assets of the Plan are to be invested in the Vantage Trust as directed by participants.

BE IT FURTHER RESOLVED that the County hereby agrees to serve as the trustee under the Plan and to invest funds held under the Plan in the Vantage Trust as directed by participants.

BE IT FURTHER RESOLVED that the Human Resource Manager shall be the coordinator for the Plan; shall receive reports, notices, etc., from the ICMA Retirement Corporation or the Vantage Trust; shall cast, on behalf of the County, any required votes under the Vantage Trust; may delegate any administrative duties relating to the Plan to appropriate staff or departments.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby authorizes the Clerk of the Board of Supervisors of James City County, Virginia, to execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan.

RESOLUTION

ADOPTION OF THE VIRGINIA RETIREMENT SYSTEM RETIREE HEALTH

INSURANCE CREDIT PROGRAM FOR LOCAL GOVERNMENT EMPLOYEES

WHEREAS, James City County does hereby elect to provide the Health Insurance Credit Program as provided in the Code of Virginia Section 51.1-1402 for its eligible current and future retirees as defined in Article 5, Chapter 1 of Title 51.1 of the Code of Virginia; and

WHEREAS, James City County agrees to accept all liability for any current or future additional employer contributions and any increases in current or future employer contribution rates resulting from its election to provide the benefits of the Program to its retirees; and

WHEREAS, James City County elects to allow its eligible retirees to receive the benefits under the Program effective July 1, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs Bruce C. Goodson, Chairman of the Board of Supervisors, James City County, Virginia, and Sanford B. Wanner, Clerk of the Board of Supervisors, James City County, Virginia, to execute any required contract in order that said eligible retirees of James City County, Virginia may participate in the Health Insurance Credit Program as provided for

in the Code of Virginia. In execution of any contract which may be required, the seal of the Board of Supervisors of James City County, Virginia shall be affixed and attested by the Clerk, and said officers of the Board of Supervisors, James City County, Virginia are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by Board of Supervisors, James City County, Virginia for this purpose.

4. Changes to Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual

RESOLUTION

CHANGES TO CHAPTER 5, EMPLOYEE BENEFITS, OF THE JAMES CITY COUNTY

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the Board of Supervisors wishes to extend two new benefits to help employees with retirement, the VRS Retiree Health Insurance Credit Program and the Deferred Compensation Match Plan; and

WHEREAS, the Board of Supervisors recently adopted an ordinance regarding the Employer Assisted Home Ownership Program to help County employees live in the community they serve; and

WHEREAS, adding certain definitions to the Leave Policy will make it clearer to employees.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the attached revisions to Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual.

Effective Date 07/01/2006

5. WAMAC Dental Hygienist - Increase in Hours

RESOLUTION

WAMAC - DENTAL HYGIENIST - INCREASE IN HOURS

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to increase the hours of the Dental Hygienist; and

WHEREAS, the Board of Directors has approved this increase for Olde Towne Medical Center; and

WHEREAS, James City County is the Fiscal Agent for WAMAC.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the increase in hours of the Olde Towne Medical Center Dental Hygienist from 8 hours per week to 16 hours per week.

6. Department of Criminal Justice Services - Grant Award - \$27,500

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES – GRANT AWARD - \$27,500

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved a grant for the Police Department in the amount of \$27,500 with a State share of \$20,625 for the enhancement of the Department's current Records Management System (RMS); and

WHEREAS, the grant requires a cash local match of \$6,875, which is available in the County's Special Projects/Grants Fund; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2006, through June 30, 2007.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation:

Revenues:

DCJS - Criminal Justice Record Systems Improvement	\$20,625
County Special Projects/Grants Fund	<u>6,875</u>
Total	<u>\$27,500</u>

Expenditure:

DCJS - Criminal Justice Record Systems Improvement	<u>\$27,500</u>
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8. Award of Bid - Baseball Field No. 5 Lighting - Warhill Sports Complex

RESOLUTION

AWARD OF BID - BASEBALL FIELD NO. 5 LIGHTING - WARHILL SPORTS COMPLEX

WHEREAS, competitive bids were advertised for the Baseball Field No. 5 lighting project at the Warhill Sports Complex; and

WHEREAS, bids were received with the low bidder being Branham Electric with a bid of \$188,500; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Baseball Field No. 5 lighting project in the total amount of \$188,500.

9. Award of Bid - Artificial Turf - Warhill Community Sports Facility

RESOLUTION

AWARD OF BID – ARTIFICIAL TURF – WARHILL COMMUNITY SPORTS FACILITY

WHEREAS, competitive bids were advertised for Community Sports Facility to be located at the Warhill Sports Complex; and,

WHEREAS, one bid for installation of the artificial turf field for Contract B was received from Pro Grass LLC; and,

WHEREAS, staff has conducted a review and concluded that the bidder, Pro Grass LLC, has a product deemed equal to others acceptable and that the company is qualified for the work; and

WHEREAS, after negotiations with the bidder, staff has satisfactorily concluded that the use of the Pro Grass XP product with modified infill material is in the interest of the County; and,

WHEREAS, previously authorized CIP budgeted funds are available to fund these contract bid awards and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the James City County Community Sports Facility Contracts B in the total amount of \$697,063.

10. Contract Award - Freedom Park Phase II-C

RESOLUTION

CONTRACT AWARD – FREEDOM PARK PHASE II-C

WHEREAS, the Request for Proposals has been advertised and evaluated and two interested firms submitted proposals; and

WHEREAS, the staff reviewed the proposals and selected Museum Resources, Inc. as the most qualified firm to provide the design-build services associated with the project; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a contract with Museum Resources, Inc. for design and reconstruction of three 19th Century Free Black Domiciles in Freedom Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes negotiation and award of a contract for design and reconstruction of 19th Century Free Black Domiciles in Freedom Park in an amount not to exceed \$400,000 to Museum Resources, Inc.

7. Award of Bid - Shoulder Strengthening and Drainage Improvements - Jamestown Road

Mr. Steven Hicks, General Services Manager, gave a brief presentation outlining the Award of Bid to Branscome Corp. for shoulder strengthening and drainage improvements to one mile of Jamestown Road for bicycle use as outlined in the 1993 Williamsburg-James City-York 2010 Regional Bicycle Facilities Plan.

Mr. McGlennon stated that the questions raised by a constituent had been adequately addressed by the presentation, that this project would make bicycling on Jamestown Road safer, and hopefully would not affect the property owners.

Mr. Goodson disclosed his business relationship with the low bidder, but as it did not exceed the State limitations for conflict of interest and this was a low-bid situation, he felt he could vote on this matter in an unbiased manner.

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5).
NAY: (0).

RESOLUTION

AWARD OF BID – SHOULDER STRENGTHENING AND DRAINAGE IMPROVEMENTS -

JAMESTOWN ROAD

WHEREAS, competitive bids were advertised for the Jamestown Road shoulder strengthening and drainage improvements; and

WHEREAS, bids were received with the low bidder being Branscome Incorporated with a bid of \$306,000; and

WHEREAS, funding of \$146,000 is available in the Non Departmental Road Improvements account and previously authorized Capital Improvements Program (CIP) budgeted funds of \$160,000 are available to complete funding of this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$160,000 from the Capital Improvements Program to the General Fund Road Improvement Account; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia authorizes the County Administrator or his designee to execute the necessary contract documents for the Jamestown Road improvements project in the total amount of \$306,000.

Mr. Steven Hicks stated Jamestown Road may be congested from the end of June through August due to road improvements.

Mr. McGlennon asked if reflectors that had been removed along Jamestown Road in preparation for the paving process would be replaced.

Mr. Hicks stated they would be replaced.

G. PUBLIC HEARINGS

Mr. Bradshaw disclosed that he had formerly represented some of the land owners, but no longer represented them and could vote on this item without bias.

1. Case No. Z-13-05. Village at Toano

Mr. Jason Purse, Planner, stated that Mr. Vernon M. Geddy, III, has applied on behalf of Jessica D. Burden, Rose Bunting, Elsie Ferguson, and Jack Ferguson for a rezoning for the construction of 91 townhome units on 20.74 acres located at 3126 Forge Road, further identified on James City County Real Estate Tax Map (12-3) as Parcel No. (1-10). The property is zoned A-1, General Agricultural, to be rezoned to R-5 Multifamily Residential with proffers.

Staff found the project's proposed density is consistent with the current Comprehensive Plan Land Use Map designation for this area. However, staff would note that this parcel is part of a key section inside the Toano Community Character area whose eventual development as part of a whole will be vital to the success of the ultimate vision of Toano. Based on the current configuration of parcels in this section of the Community Character Area and this project's focus on design characteristics specific to its own development rather than the adjoining Community Character Areas, staff does not believe that this project meets the criteria set forth in the Toano Community Character Area Study with respect to joint development or character.

At its meeting on May 1, 2006, the Planning Commission voted to recommend denial of this rezoning application by a vote of 5-1.

Staff recommended that the Board of Supervisors deny this rezoning and master plan application for the Village at Toano.

Mr. Bradshaw stated the Toano Community Character Design Guidelines can be interpreted many ways.

Mr. Goodson opened the Public Hearing and mentioned that Mary Jones of the Planning Commission was in attendance.

1. Mr. Wallace Scruggs, representing the applicant W.R.M. Ventures, gave an overview presentation of the application for the Village at Toano. Mr. Scruggs stated this project aimed to develop a transitioning skyline along Richmond Road, which was outlined in the Toano Community Character Design Guidelines. He also outlined a proposal for an alleyway between the property and the adjacent commercial properties.

Mr. Icenhour asked what level of residential density was present in the corridor.

Mr. Purse stated Burnt Ordinary development is likely the largest density in the area and the other adjacent properties consisted of single-family dwellings.

Mr. Bradshaw stated the first residential community in this area sold 25-foot-lots for single-family dwellings.

2. Ms. Rose Bunting, 3126 Forge Road, stated she is one of the property's four owners attempting to sell the property and gave a history of the property's zoning classifications and development.

3. Mr. Ray Baysley, 4060 South Riverside Drive, stated his opposition to the Village at Toano, but asked that if the application were approved, to place contingency upon the entrance off Forge Road being

divided and the restriction of any shrubbery within the first 40 feet of the entrance from being over two feet high.

4. Mr. Rich Krapf, Friends of Forge Road, 2404 Forge Road, stated the opposition of the Friends to the application due to lack of compatibility, buffers, and traffic. Mr. Krapf stated public concern due to traffic flow, improving open space, existing development, and diminished rural quality, lack of on-site recreation. Mr. Krapf outlined alternative facilities that his group believed would better serve the residents.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Bradshaw asked Mr. Purse what would prevent this type of development from continuing along Forge Road.

Mr. Purse stated the Comprehensive Plan designation is moderate-density residential and aside from a small portion of property adjacent to the west, the surrounding area to the left was designated as rural lands. Mr. Purse continued the Primary Service Area was to the left and the area was included in the Toano Community Character Area.

Mr. Bradshaw inquired if there was a line of limitation for development of this plan.

Mr. Purse confirmed that.

Mr. Bradshaw asked about the Comprehensive Plan moderate-density designation.

Mr. Purse stated moderate-density designation was a minimum of four dwelling units per acre up to a maximum of twelve dwelling units per acre, depending on the scale and public benefit.

Mr. Bradshaw asked if a proposal came forward with a lower density and if the development would conform with the Comprehensive Plan.

Mr. Purse stated it would be more in conformance with a low-density residential designation, which has a density of one to four dwelling units per acre.

Mr. Bradshaw stated he believed there were parcels that consisted of low-density residential zoning before the land changed to rural lands.

Mr. Purse confirmed this.

Mr. Bradshaw asked about traffic control at this intersection due to congestion and inquired about the developer's proffer for a stoplight in the area.

Mr. Purse confirmed this.

Mr. Bradshaw asked if there was any other parcel of property within the Toano Community Character Area that may be developed with a potential proffer of a stoplight at Route 60 to help control traffic on Forge Road.

Mr. Purse stated staff was unaware of any and looking at the plans; there was nothing that would be developed that was as large as this property.

Mr. Bradshaw asked if there was anything on Forge Road that would direct traffic to Forge Road or that may be able to put forth proffers for a stoplight.

Mr. Purse stated there were some developments further down Forge Road but they were not designated as high in residential density as this development.

Mr. Bradshaw stated the application fell within the Comprehensive Plan but the Board needed to carefully examine and consider the Toano Community Character Area Design Guidelines.

Mr. Purse stated staff did not assert that residential was not desired in this area.

Mr. Bradshaw asked how the Guidelines fit within the Comprehensive Plan.

Mr. Purse stated the Comprehensive Plan and Design Guidelines were used jointly as well as land use standards for that particular designation.

Mr. Bradshaw asked about the mass, scale, and density of a project.

Mr. Purse explained that in this case pieces were used from the Toano Guidelines and the Comprehensive Plan.

Mr. Bradshaw asked about guidelines and that the area not be developed at a larger scale than the surrounding areas.

Mr. Purse stated this stipulation was located in both the Comprehensive Plan and the Toano Community Character Area Design Guidelines and read the excerpts from each that helped staff to develop criteria.

Mr. Bradshaw asked that since the western property is undeveloped, if that would dictate that this property would be undeveloped or low-density developed.

Mr. Purse stated staff was examining development in the surrounding area to determine scale and density, including large office buildings. Mr. Purse said the triplex units, which would be the dominant visual feature in the area due to the size, were approaching the size of the office buildings.

Mr. Bradshaw asked if mass and scale referenced the footprint, square footage, or height of the development.

Mr. Purse stated it took all those into consideration.

Mr. Bradshaw asked if the large industrial and other nonresidential developments were considered in reference to the scale of the development.

Mr. Purse stated industrial-use development was not taken into account but asked if the Board could offer input as to whether it should be considered.

Mr. Bradshaw asked what residential buildings staff examined for scale and mass.

Mr. Purse stated staff looked at the limited residential developments in the area, including Burnt Ordinary and stated that unlike the Burnt Ordinary development, these homes would be the dominant visual feature of the area.

Mr. Bradshaw asked if this would be masked by trees.

Mr. Purse stated the buffer was at the entrance of the development.

Mr. Bradshaw inquired about what buildings to look at to reference mass and scale, and stated to look at what has been historically present.

Mr. McGlennon stated the larger-scale buildings are typically commercial use and are on a larger area of land and the plan was a mass of residential consuming the parcel. Mr. McGlennon asked staff if this multifamily use of the land was possible.

Mr. Purse stated it would be possible if changing square footage, orientation, and interconnectivity of uses.

Mr. McGlennon stated that recreating the Village at Toano consisted of the idea of interconnectivity as opposed to a self-contained subdivision. Mr. McGlennon also stated concern about the lack of mixed-cost housing.

Mr. Bradshaw commented on the alleyway, additional entrance on Route 60 and stated there was already interconnectivity.

Mr. McGlennon stated there should be a way to go through to Richmond Road.

Mr. Icenhour stated the Proposed Streetscapes Plan in the Design Guidelines has a grid of interconnected streets.

Mr. Bradshaw stated that the Guidelines should indicate what would be desired in an application, but also allow flexibility in order to actually have a proposal meet the standards set forth, and stated it was unreasonable to ask an applicant to acquire and develop several properties along Route 60 to create a more village-like atmosphere.

Mr. Harrison stated the issue at hand was zoning.

Mr. Bradshaw stated the designation of A-1 is inconsistent with the Comprehensive Plan.

Mr. Harrison stated the development would create a burden due to lack of services within the village.

Mr. Bradshaw stated this was due to the Comprehensive Plan disallowing shops in that area.

Mr. Harrison stated the development was not very much like a village.

Mr. Bradshaw stated that the Board before adopted the previous Comprehensive Plan and he is compelled to agree with the decisions of the previous Board.

Mr. McGlennon stated that the objective of the Comprehensive Plan may be met, but not by residential development. Mr. McGlennon stated he would like to see more commercial development in the area. He indicated that economic development would develop in the area because there was already enough residential development.

Mr. Bradshaw stated for other residential growth that would develop, the residents would have to drive to area businesses, whereas the residents of this development would be able to walk.

Mr. McGlennon stated there is no inconsistency with what is proposed, but he did not feel the development met the objective addressed when the Design Guidelines were adopted. Mr. McGlennon stated though the property would eventually sell and develop, the developer had a model in mind and has not shown flexibility. Mr. McGlennon stated the Planning Commission voted denial 5-1 and these were all serious concerns.

Mr. Icenhour stated the Comprehensive Plan shows the Character Corridor as a mixed use, and the development is the only moderate density in the area. Mr. Icenhour stated these zonings are inconsistent and Toano is not listed as inconsistent; all the other areas were listed as deliberately inconsistent and explained.

Mr. Icenhour commented on the design guidelines increasing the density. Mr. Icenhour asked why this property is moderate density. He stated he could support the development if it were less dense and there were more open space.

Mr. Bradshaw stated this was the lowest density for moderate-density designation and changing this designation would be changing the Comprehensive Plan.

Mr. Icenhour stated this was designated as Mixed Use according to the Comprehensive Plan.

Mr. Bradshaw stated this was the purpose of a rezoning application and when the Comprehensive Plan states inconsistencies, it is not necessary to allow the zonings to remain in place.

Mr. Harrison asked if the rezoning would permit any commercial development.

Mr. O. Marvin Sowers, Jr., Planning Director, stated the Guidelines allowed limited commercial, that the frontage on Richmond Road would be predominantly commercial, as well as mixed use residential, and that staff's concern with this development was the scale and mass of the development.

Mr. Bradshaw asked if this would be so the units were not seen from the highway.

Mr. Sowers stated this would display a lower density.

Mr. Bradshaw asked the difference between density and mass.

Mr. Sowers responded the terms are in reference to the size of the structure and consistency of the streetscape with the structure.

Mr. Bradshaw stated that the Design Guidelines specifically stated an alleyway should be put between the business and residential developments.

Mr. Sowers stated that the Design Guidelines also stated the need for interconnectivity which the application did not adequately provide.

Mr. Bradshaw asked if there would be a way to do this without the applicant being required to own Route 60 frontage parcels.

Mr. Sowers stated he has not seen any diagrams that would indicate feasibility of this.

Mr. McGlennon stated these are new Design Guidelines and there would be flaws. He stated this parcel would be the first to be developed and the first to be seen from the west and he would like more cooperation with the applicant.

Mr. Goodson asked staff if flaws were discovered when the standards were applied to the proposal.

Mr. Sowers stated there were not necessarily flaws, but there were features of the application that staff did not find consistent with the Guidelines.

Mr. Harrison asked staff if the developer had done certain things so they would have achieved the joint development.

Mr. Sowers stated staff did not see a plan that would accomplish this.

Mr. Bradshaw commented on joint development and stated he thought this applied to access to parcels and discourage development of the piece if an alleyway was not provided. This disallowed development of commercial pieces upfront unless access was provided and development of this piece unless access to Richmond Road was acquired.

Mr. McGlennon stated there needed to be a practical recognition of the difficulty to force property interconnectivity, but it was reasonable to encourage the joint development. He stated that staff was not requiring this and that the application does not do enough to provide the desired characteristics of the area.

Mr. Bradshaw stated he interpreted staff indicated that the interconnectivity did not include the front parcels.

Mr. Purse stated staff was looking for more open space and joint development rather than just vehicular access to the other parcels, and there were opportunities for more joint development in the area.

Mr. Harrison stated the design layout could have been situated more jointly with the frontage parcels.

Mr. Sowers stated there should be more than just vehicular access land uses for the parcels, including outdoor cafés, plazas, parks and similar uses rather than just driveways and alleys.

Mr. Harrison made a motion to deny the application.

Mr. Bradshaw stated this was helpful discussion in addressing the Toano Design Guidelines.

Mr. Icenhour stated his appreciation for generating the discussion to clarify some of his questions about rezoning and the Comprehensive Plan.

Mr. Goodson stated he disagreed and stated the Comprehensive Plan was very clear in its language and expressed his opposition to the application.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Goodson (4). NAY: Bradshaw (1).

Mr. Goodson recessed the Board for a short break at 9:05 p.m and called the Board back in session at 9:10 p.m.

2. Case No. SUP-13-06. Unicorn Cottage Child Day-Care Center (Continued from May 9, 2006)

Mr. Joel Almquist, Planner, stated Ms. Sharon Dennis has applied for a Special Use Permit (SUP) to operate a child day care center at 3021 & 3025 Ironbound Road, further identified on the James City County Real Estate Tax Map No. (47-1) as Parcel Nos. (1-67 & 1-67A). The properties consist of 1.42 acres and are zoned R-8, Rural Residential.

Staff found the proposal consistent with the surrounding properties and uses. Staff also found the proposal consistent with the 2003 Comprehensive Plan and the Zoning Ordinance.

The Planning Commission recommended approval of the SUP with the attached conditions by a vote of 6-0.

Staff recommended the Board approve this commercial SUP.

Mr. Goodson opened the Public Hearing.

Mr. McGlennon asked the applicant, Ms. Sharon Dennis, to clarify for the public that she would be operating the day care facility within the guidelines of the State.

1. Ms. Sharon Dennis, 528 Neck-O-Land Road, stated she would be required to operate her facility within the State's guidelines.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Harrison disclosed that he would be involved in a day care business in the center which Ms. Dennis was vacating but he felt he could vote without bias.

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

RESOLUTION

CASE NO. SUP-13-06. UNICORN COTTAGE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that are permissible only upon the issuance of a SUP; and

WHEREAS, child day care centers are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 5, 2006, recommended approval of Case No. SUP-13-06 by a 6-0 vote to allow the operation of a child day care center at 3021 and 3025 Ironbound Road and further identified as Parcel Nos. (1-67) and (1-67A) on James City County Real Estate Tax Map No. (47-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-13-06 as described herein with the following conditions:

1. Enrollment. The proposed use shall have no more than 30 children enrolled at any one time. Additional enrollment above the number of 30 children shall require an additional SUP.
2. Hours of Operation. Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. Entrance Landscaping. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 100-foot Community Character Corridor buffer along Ironbound Road, so that the required size of plants and trees equals at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the Community Character Corridor buffer shall be evergreen.
4. Lighting: Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side.

Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot candle or higher shall extend outside the property lines.

5. Perimeter Buffer: A landscaped perimeter buffer shall be installed and maintained around the parcel so as to visibly screen the facility from adjacent property owners. Prior to final site plan approval for any section or phase of the Project the applicant shall include enhanced landscaping in the perimeter buffer areas so that the required size of plants equals at least 133 percent of the County's Landscaping Ordinance.
6. Parking: All parking shall be located at the rear of the building. If the applicant determines that a parking lot cannot be placed at the rear of the building due to engineering constraints, such a determination shall be presented to the County Engineer for his concurrence and approval. If the County Engineer approves of such a determination, then any resulting parking must be screened from view from Ironbound Road by both fencing and a vegetative buffer consistent with Section 24-97(c) of the James City County Zoning Ordinance. The fencing used to enclose the parking area shall be non-chain link vinyl or wood with a minimum height of 40 inches and shall be reviewed and approved by the Director of Planning prior to final site plan approval.
7. Architecture: Prior to approval of any new on-site building construction or alterations for the day care facilities, the Director of Planning shall review and approve the final architectural design of the building for consistency with the design guidelines outlined in the document entitled "Primary Principles for the Five Forks Area of James City County" adopted by resolution of the James City County Board of Supervisors on September 28, 2004.
8. Water Conservation: The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
9. Junk Removal: The applicant shall remove all junk from the property prior to final site plan approval. "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. The James City County Zoning Administrator, or his designee, shall verify, in writing, that all junk has been properly removed from the property.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. HW-3-06. 8th Elementary School Athletic Field Lighting

Mr. Jason Purse, Planner, stated Mr. Alan Robertson of James City County has requested a height waiver to construct six 70-foot-tall light poles to illuminate the baseball field at the 8th Elementary School site. The property is located at 4001 Brick Bat Road and can be further identified on James City County Real Estate Tax Map No. (36-3) as Parcel No. (1-1). The property consists of approximately 40 acres and is zoned A-1, General Agricultural. On property zoned A-1, structures may be constructed up to 60 feet; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board of Supervisors.

The proposed use for the school site and playing fields has been previously approved for the site with SUP-5-06 and the site plan for the school is currently under review by the County and other reviewing agencies. The other two playing fields will also be lighted, but the poles will be 60 feet in height, and therefore do not require a height waiver. Those fields will be lighted with “practice lighting,” which are not held to the same height standards as “competition lighting,” which requires a taller pole to meet State requirements. Staff stated due to the size of the field, the taller poles would require fewer poles to be installed and the light emitted would be more concentrated on the field using the Musco Light Structure Green System. Staff stated the taller light poles would be located approximately 620 feet from the property line adjacent to the street across from Greensprings West and 160 feet from the nearest property line to the undeveloped A-1 property to the west, and the illumination plan indicates that no glare will be cast outside property lines.

Staff found the proposal consistent with the requirements under Section 24-218 of the Zoning Ordinance.

Staff recommended approval of the height waiver.

Mr. Icenhour asked if these were the same lights to be used on the 60-foot lights.

Mr. Purse stated these would be Musco lights, which are concentrated on the field.

Mr. Goodson opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, asked if the fields would be used by the Department of Parks and Recreation in conjunction with the schools.

Mr. Wanner stated the fields would be used jointly between the Parks and Recreation Department and the schools, dictating the necessity of the Public Hearing.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Harrison made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

RESOLUTION

CASE NO. HW-3-06. 8TH ELEMENTARY SCHOOL ATHLETIC FIELD LIGHTING

WHEREAS, Mr. Alan Robertson, on behalf of James City County, has applied for a height limitation waiver (HW) to allow for the construction of six 70-foot-tall athletic field lighting poles; and

WHEREAS, the field will be illuminated with Musco Light Structure Green outdoor sports lighting, or other lighting of substantially equivalent or superior off-site spill light control characteristics; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. HW-3-06; and

WHEREAS, the light poles will be located on property zoned A-1, General Agricultural, and is further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (36-3); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-218 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of structures in excess of 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-3-06.

4. Ordinance to Amend and Reordain JCC Code Section 5-8, Cable Communications Committee's Powers and Responsibilities; and Section 5-20, System Description and Service to modify the use, services, and programming of the public access channel

Mr. Rogers introduced Ms. Joycelyn Powe, a summer intern in the County Attorney's Office.

Ms. Joycelyn Powe stated the ordinance amendment eliminated the requirement for public access within the County to allow for the possibility of airing NASA feeds. She stated Ms. Jody Puckett, Communications Director, was available to answer questions.

Mr. Harrison asked Ms. Jody Puckett what changes the ordinance would allow to programming on Channel 46.

Ms. Puckett stated that changing the ordinance would allow the expansion of service on Channel 46 and remove the current limitations of programming.

Mr. Icenhour asked for clarification that the ordinance would eliminate the requirement, not the capability.

Ms. Puckett confirmed that the ordinance would only eliminate the requirement for public access.

Mr. Icenhour stated he would like to maintain some public access, asked if this would be allowed, and if fees would be raised.

Ms. Puckett stated they would be allowing access, especially during election, and may be accommodating the candidates, perhaps on the Government Channel 48. She stated the committee would have to look at prices.

Mr. Icenhour asked that the other Board members would suggest guidance to the Cable Committee.

Mr. Goodson stated his support of this item and suggested a work session and a Board directive to the Cable Committee to determine appropriate programming for this channel.

Mr. Harrison asked if this work session would include the Committee.

Mr. Wanner stated he would recommend including the Committee in the work session.

Mr. Goodson stated the ordinance would be changed tonight, but programming would not be changed until after the work session.

Mr. Wanner stated there was a great discount in comparison to the fair market price for production in the County's public access facility.

Mr. McGlennon asked how often the rates are changed.

Ms. Puckett stated the rates had not been changed in at least four years.

Mr. McGlennon asked how the prices compared to the market at the time the prices were assigned.

Ms. Puckett stated the prices were below the market at that time as well.

Mr. Wanner reminded the Board and the public that the County is the only jurisdiction in Hampton Roads with Public Access.

Mr. Harrison stated that maybe the County should be proud of that distinction.

Mr. Goodson opened the Public Hearing.

Ms. Julie Leverenz, 3313 Running Cedar way, Cable Communications Advisory Committee member, stated that when the public access channel was established in 1986, communication tools such as cell phones and the Internet were in their infancy and Public Access was the best way to communicate with the public and since the NASA channel was dropped by cable, there have been constant complaints to reestablish the NASA channel in the County.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Bradshaw made a motion to adopt the ordinance.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

Mr. McGlennon stated that County website was now streaming JCC TV 48 on the Internet.

Mr. Wanner announced the County was now streaming JCC TV 48 live on its website. Mr. Wanner stated the Board of Supervisors meetings and Planning Commission meetings as well as other Channel 48 programs would be viewable via live streaming video on the Internet. Mr. Wanner stated the streaming video would allow citizens within the County and abroad to watch our government at work and reduces the reliance on Cox Cable for citizens to view programming on Channel 48.

5. Right-of-Way Agreement - Dominion Virginia Power - Chickahominy Riverfront Park

Mr. John Carnifax, Parks and Recreation, gave an overview of where an easement would be located to move utility lines underground in the area of the Chickahominy Riverfront Park.

Mr. Bradshaw asked if the underground lines were of any cost to James City County.

Mr. Carnifax stated at that time he did not believe they were of any cost to the County.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to this matter, Mr. Goodson closed the public hearing.

Mr. Harrison made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

RESOLUTION

**RIGHT-OF-WAY AGREEMENT, DOMINION VIRGINIA POWER -
CHICKAHOMINY RIVERFRONT PARK**

WHEREAS, James City County ("County") owns 140.484 acres located at 1350 John Tyler Highway, commonly known as the Chickahominy Riverfront Park ("Park") and designated as Parcel No. 0100002 on James City County Real Estate Tax Map No. (34-3); and

WHEREAS, Dominion Virginia Power requires right-of-way and utility easements of variable widths between 15 feet and 30 feet across a portion of the Park in order to relocate electrical lines to the Park as part of Virginia Department of Transportation's (VDOT's) Route 5 bridge replacement project; and

WHEREAS, the Board of Supervisors following a public hearing are of the opinion that it is in the public interest to convey right-of-way and utility easements to Dominion Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the right-of-way agreements and other such documents necessary to convey the utility easements to Dominion Virginia Power for the relocation of electrical lines at the Park as part of VDOT's Route 5 bridge replacement project.

6. Ordinance to Amend and Reordain JCC Code Section 13-7, Adoption of State Law; and Section 13-28, Adoption of State Law, Generally to adopt by reference the State Code provisions amended by the General Assembly

Mr. Rogers reintroduced Ms. Jennifer Lyttle to the Board as a new Assistant County Attorney.

Ms. Jennifer Lyttle, Assistant County Attorney, gave an overview of the annual ordinance amendment adopted each year in order to comply with State Code in the matter of driving while intoxicated or under the influence of any drug.

Mr. Bradshaw asked if there was a way to renew this item permanently rather than each year.

Mr. Rogers responded that this item needed to be renewed annually to comply with State Code.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. McGlennon made a motion to adopt the ordinance amendment.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

7. Employer Assisted Home Ownership Program Applications

Ms. Carol Luckam stated the County provides an employer-assisted home ownership program and three applicants have qualified for assistance. Ms. Luckam stated that due to State enabling legislation, a public hearing is required for local government home ownership programs.

Mr. Bradshaw stated he would like to abstain from voting as there were no names listed and he would abstain as he may represent one of the unnamed applicants.

Mr. Wanner stated these people were not named because they may not have met all the requirements for the program.

Mr. McGlennon stated his surprise that the General Assembly placed this charge in the hands of local Boards where the individuals may be named.

Mr. Rogers stated the State Code did not indicate that the individuals needed to be named.

Mr. Wanner stated staff could tell the Board where the applicants work.

Ms. Luckam disclosed where the applicants worked, and stated she did not want to deter individuals from applying for the assistance by having their names listed in the public record.

Mr. Icenhour made a motion to adopt the three ordinances.

Mr. McGlennon directed that the record showed that all three ordinances were adopted at the same time.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Goodson (4). ABSTAIN: Bradshaw (1). NAY: (0).

H. PUBLIC COMMENT - None

I. REPORT OF THE COUNTY ADMINISTRATOR

Mr. Wanner updated the Board on the need for additional land for road improvements for the 8th elementary school site at 4001 Brick Bat Road. He stated on May 16, 2006, the School Board awarded the contract to Jack Massie to clear and grade Phase I of the project, and on June 7, 2006, Massie started clearing the site and setting up the construction entrance. Mr. Wanner said the bids would open for Phase II of the project on June 27, 2006, to be awarded on July 18, 2006. Mr. Wanner explained that Phase II would include improvements to Brick Bat Road along the school frontage, as well as turn lanes for the bus loop and parking lot. Mr. Wanner stated the Brick Bat Road improvement would be advertised in March 2007 and the County's portion of the road improvement project would start in May 2007 with a completion date of August 2007 from Centerville Road back to the 8th elementary school.

Mr. Wanner recommended the Board adjourn to 4 p.m. on June 27 for three work sessions: Davenport Financing Update, Emergency Preparedness, and Powhatan Creek Watershed Management Plan Update and recommended that the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for consideration of personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) for consideration of the acquisition of a parcel(s) of property for public use.

J. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon asked if Mr. Wanner knew if the General Assembly had adopted a budget.

Mr. Wanner responded that he had spoken with Senator Norment's Chief of Staff who stated the General Assembly was making progress.

Mr. McGlennon commented on a moving Memorial Day service at the cemetery and stated it was very well done.

Mr. Bradshaw reminded the Board and citizens of the James City County Fair and welcomed the Toano-Norge Times newspaper to the community.

K. CLOSED SESSION

Mr. Harrison made a motion that the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for consideration of personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) for consideration of the acquisition of a parcel(s) of property for public use.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5).
NAY: (0).

Mr. Goodson recessed the Board to Closed Session at 9:43 p.m.

Mr. Goodson reconvened the Board into Open Session at 10:29 p.m.

Mr. McGlennon made a motion to adopt the Closed Session Resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5).
NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) for consideration of the acquisition of a parcel(s) of property for public use.

Mr. Bradshaw made a motion to recommend Mr. William I. Pennock to the Board of Zoning Appeals, to appoint Mr. Andy Bradshaw, Mr. Jim Icenhour, Mr. Jack Fraley, Ms. Mary Jones, and Mr. Rich Costello to the Rural Lands Technical Committee and to appoint Mr. Andy Bradshaw and Mr. John McGlennon to the School Contract Negotiation Team.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5).
NAY: 0

The Board and staff briefly discussed a potential purchase of property.

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn to 4 p.m. on June 27, 2006.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5).
NAY: (0).

At 10:38 p.m., Mr. Goodson adjourned the Board until 4 p.m. on June 27, 2006.

Sanford B. Wanner
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF JUNE 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

Mr. Goodson requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE - Drake Kuhn, a rising tenth-grader at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Jim Brewer, Williamsburg Administrator, Virginia Department of Transportation (VDOT), stated improvements to Monticello Avenue and Ironbound Road were approximately 15 percent complete and on schedule; Greensprings Trail was approximately 12 percent complete; Capitol-to-Capitol Trail was approximately 25 percent complete; and there would be a Public Hearing on the evening of June 28, 2006, for the Ironbound Road project.

Mr. Harrison requested Mr. Brewer state the location of the Public Hearing.

Mr. Brewer stated the Public Hearing would take place at Berkeley Middle School.

Mr. Harrison said there were trees hanging over Route 5 between Hickory Sign Post Road and Westray Downs and asked that VDOT look at the trees to see if they could be cut down.

Mr. Icenhour asked Mr. Brewer if a study was being done on Airport Road and Route 60 in reference to stacking in the intersection.

Mr. Brewer responded this was an ongoing study.

Mr. Goodson reminded the public that Board meetings are being streamed on the Internet.

E. PUBLIC COMMENT

1. Mr. John Laben, 200 Nina Lane, spoke about the need for the Ironbound/Monticello Road intersection to be bicycle friendly.

2. Ms. Kathryn Preston, 139 Fintail Trace, Active Williamsburg Alliance, spoke on active living in James City County and presented the Board with designs for safe pedestrian and bicycle traffic on the Ironbound Road/Monticello corridor. Ms. Preston requested the Board work with VDOT to allow for safer bicycle and pedestrian crossings at the Ironbound and Monticello intersection.

3. Mr. Ed Oyer, 139 Indian Circle, commented on Route 60 traffic; the off-street parking ordinance; the need for a loitering ordinance; Route 60 improvements; the conditions of the yard of a house on Plantation Road; and shrubbery on Plantation Road.

F. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the Consent Calendar.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

1. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Season's Trace Development, Inc.

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

SEASON'S TRACE DEVELOPMENT, INC.

WHEREAS, Season's Trace Development, Inc. is the owner of a certain parcel of land, commonly known as 2939 Leatherleaf Drive, Toano, VA, designated as Parcel No. (5-1) on James City County Real Estate Tax Map No. (2-14), herein referred to as the ("Property"); and

WHEREAS, on or about May 11, 2006, Season's Trace Development, Inc. caused approximately 2,200 square feet of the Resource Protection Area on the Property to be graded and filled; and

WHEREAS, Season's Trace Development, Inc. agreed to a Restoration Plan to replant six trees, 12 understory trees, and 18 shrubs, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance. Season's Trace Development, Inc. has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Season's Trace Development, Inc. has agreed to pay \$1,550 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,550 civil charge from Season's Trace Development, Inc., as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

2. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Deborah L. Smith

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

DEBORAH L. SMITH

WHEREAS, Deborah L. Smith is the owner of a certain parcel of land, commonly know as 194 Racefield Drive, Toano, VA, designated as Parcel No. (1-5) on James City County Real Estate Tax Map No. (3-2), herein referred to as the ("Property"); and

WHEREAS, on or about May 5, 2006, Deborah L. Smith caused to be removed approximately five trees, ten understory trees, and 15 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Deborah L. Smith agreed to a Restoration Plan to replant 10 canopy trees, 20 understory trees, and 30 shrubs on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance. Deborah L. Smith has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Deborah L. Smith has agreed to pay \$1,000 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area an the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from Deborah L. Smith, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

3. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - N. Ray Lee

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE –

N. RAY LEE

WHEREAS, N. Ray Lee is the owner of a certain parcel of land, commonly known as 103 Acacia Court, Williamsburg, VA, designated as Parcel No. (24-29) on James City County Real Estate Tax

Map No. (49-1), hereinafter referred to as the ("Property"); and

WHEREAS, on or about March 15, 2006, N. Ray Lee caused to be removed approximately five trees, seven understory trees, and 16 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, N. Ray Lee agreed to a Restoration Plan to replant 10 trees, 14 understory trees, and 32 shrubs, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and N. Ray Lee has posted sufficient surety to guarantee the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, N. Ray Lee, has agreed to pay \$1,000 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from N. Ray Lee as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

4. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Mary P. McCoy

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

MARY P. MCCOY

WHEREAS, Mary P. McCoy is the owner of a certain parcel of land, commonly known as 2508 Robert Fenton Road, Williamsburg, VA, designated as Parcel No. (24-40) on James City County Real Estate Tax Map No. (48-3), herein referred to as the ("Property"); and

WHEREAS, on or about March 15, 2006, Mary P. McCoy caused to be removed approximately five understory trees and shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Mary P. McCoy agreed to a Restoration Plan to replant 10 understory trees, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and Mary P. McCoy has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Mary P. McCoy has agreed to pay \$250 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$250 civil charge from Mary P. McCoy, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

5. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Scott A. and Tamara W. Albertson

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

SCOTT A. AND TAMARA W. ALBERTSON

WHEREAS, Scott A. and Tamara W. Albertson are the owners of a certain parcel of land commonly known as 720 Arlington Island Road, Lanexa, VA, designated as Parcel No. (11-2) on James City County Real Estate Tax Map No. (9-3), herein referred to as the (“Property”); and

WHEREAS, on or about March 7, 2006, Scott A. and Tamara W. Albertson caused to be removed approximately five trees and 30 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Scott A. and Tamara W. Albertson agreed to a Restoration Plan to replant 10 understory trees, and 40 shrubs on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance. Scott A. and Tamara W. Albertson have posted sufficient surety guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Scott A. and Tamara W. Albertson have agreed to pay \$2,250 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$2,250 civil charge from Scott A. and Tamara W. Albertson, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

6. Wellington Subdivision - Amendment to Declaration of Covenants, Conditions and Restrictions

RESOLUTION

WELLINGTON SUBDIVISION - AMENDMENT TO DECLARATION OF COVENANTS,

CONDITIONS, AND RESTRICTIONS

WHEREAS, the Wellington subdivision has in its Declaration of Covenants, Conditions, and Restrictions a

condition that prohibits the installation of automatic irrigation systems; and

WHEREAS, the developer of the Wellington subdivision has requested approval of an amendment to the Covenants that allows the installation of automatic irrigation systems for turf and landscaped beds; and

WHEREAS, staff supports this request because irrigation systems will assist property owners establish turf to stabilize soils in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses an amendment to Section F (ii) of the Wellington subdivision, allowing the automatic irrigation systems to serve no more the 30 percent of the net area of the lot.

7. Revised Administrative Plan for the Section 8 Housing Choice Voucher Program

RESOLUTION

REVISED ADMINISTRATIVE PLAN FOR

THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

WHEREAS, the James City County Office of Housing and Community Development is the designated Public Housing Agency (PHA) authorized to operate the Section 8 Housing Choice Voucher Program within James City County; and

WHEREAS, a PHA which operates the Section 8 Housing Choice Voucher Program must adopt an Administrative Plan which states local policies on matters for which the PHA has discretion; and

WHEREAS, there have been several changes in Federal policies and regulations related to operation and funding of the Housing Choice Voucher Program since the Administrative Plan was last adopted by the Board of Supervisors on May 24, 2005; and

WHEREAS, the Office of Housing and Community Development has prepared a revised Administrative Plan which incorporates and responds to changes in Federal policies and regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the revised Administrative Plan for the Section 8 Housing Choice Voucher Program effective July 1, 2006.

8. Grant Appropriation - \$188,926 - Clerk of the Circuit Court

RESOLUTION

GRANT APPROPRIATION - CLERK OF THE CIRCUIT COURT

WHEREAS, the State Compensation Board has awarded the Clerk of the Circuit Court technology grants totaling \$188,926; and

WHEREAS, there is no local match required.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendment to the Special Projects/Grants Fund:

Revenue:

State Compensation Board Technology Grant	<u>\$188,926</u>
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Expenditure:

Clerk Technology Upgrades	<u>\$188,926</u>
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G. PUBLIC HEARINGS

1. Case No. SUP-04-06/MP-01-06. Prime Outlets Master Plan Amendment

Ms. Kate Sipes, Planner, stated Attorney Greg Davis has applied on behalf of Prime Retail, L.P. to amend the existing approved Master Plan and Special Use Permit (SUP) for the Prime Outlets to allow an expansion of approximately 81,000 square feet on existing and adjacent sites (Phases 7 and 8). Currently, Phases 1-6 of Prime Outlets exist or are already approved, comprised of 359,330 square feet of net retail area. Currently, 1,439 parking spaces exist for a parking ratio of 1:200. If Phases 7 and 8 are approved, the net retail area would equal approximately 403,366 square feet. Based on this net figure, 2,017 parking spaces are required per the parking ordinance, including 237 additional spaces proposed over existing Best Management Practice (BMPs); 2,306 total parking spaces are proposed for a parking ratio of 1:175.

In 2004, prior to Prime Outlets acquiring the Ewell Station property, a site plan was approved for the Ewell Station parcel. This approved plan, Site Plan (SP) 110-02, provided for a Phase II expansion of an additional 69,000 square feet. This would bring the Ewell Station site to a total of 137,000 square feet of retail. Prime Outlets Phase 7 expansion proposes to construct 74,000 square feet on the Ewell Station property, transferring the already approved 69,000 square feet to this project.

Staff found, with the conditions addressed, the proposal substantially mitigated concerns that were previously expressed.

At its meeting on June 5, 2006, the Planning Commission voted 5-1 to approve the amendment.

Staff recommended approval of the resolution.

Mr. Goodson opened the public hearing for Case Nos. SUP-04-06/MP-01-06.

1. Mr. Greg Davis, Kaufman & Canoles, representing Prime Outlets, presented the proposed expansion to the current development of Prime Outlets, traffic solutions, conceptual elevations, landscaping, and economic impacts. Mr. Davis asked the Board to consider the structured parking not be included on the site plan as requested by staff in order to expedite the process.

Mr. Icenhour asked the applicant how the projection of local sales tax increase was projected to be between \$1.6 and \$1.8 million if there was only a 40 percent increase in square footage.

Mr. Davis stated he did not bring a fiscal impact summary to verify these numbers, but as Prime Retail operates nationally, these numbers are expected to be produced in good faith, and there was no attempt to mislead the Board with these numbers.

Mr. McGlennon asked if the figure to which the applicant and Mr. Icenhour were referring was the State sales tax and not the local sales tax.

Mr. Davis clarified that the number referred to State sales tax and not local sales tax.

Mr. McGlennon inquired about the conditions involving stormwater improvement off-site. Mr. McGlennon asked about the estimate of cost the applicant was committing to pay.

Mr. Davis stated that whatever degree the development contributed to, estimated \$60,000, the impact would not be a large figure.

Mr. McGlennon asked for confirmation that the applicant was committing to a percentage of \$60,000; Mr. Davis stated this was correct.

Mr. McGlennon asked what the problem would be with including the parking in the site plan.

Mr. Davis stated this would delay the process and there was not enough time between the inception and the construction to engineer the structured parking.

Mr. Harrison inquired about adequate parking at the current development.

Mr. Davis stated the structured parking would come on-line, but there would be adequate parking only the larger 53,000-square-foot building.

Mr. Icenhour stated the ordinance specifies square footage of retail space, which specifies five spaces per with 1,000 square feet for outlet malls.

Mr. Rogers stated the square footage is identified, but not identified as net or gross square footage. This is a provision subject to a zoning administrator's interpretation on a case-by-case basis, and the zoning administrator had to decide if the square footage should be gross or net square footage.

Mr. Icenhour stated the zoning ordinance needed to be revisited to address retail square footage.

Mr. Goodson asked the applicant if this would be identified as an outlet mall or an outlet center.

Mr. Davis stated the applicant relied on the discretion of the Zoning Administrator as prescribed by the ordinance.

Mr. Bradshaw asked what incentive or risk the client has asked for accommodations for building without parking.

Mr. Davis stated the Ewell Center was bought without a contingency, and that Prime Outlets could refrain from building the smaller buildings and get the square footage agreed upon on sale without building additional parking. Mr. Davis stated that the incentive to build the parking structure was to draw customers.

2. Mr. Ray Basley, 4060 South Riverside Drive, commented on insufficient parking at Prime Outlets. Mr. Basley asked the Board to complete construction on parking structures and identification of "No Parking" areas prior to construction of buildings. Mr. Basley also recommended the County update the current zoning ordinance in relation to parking. Mr. Basley asked that the Board deny this application.

3. Mr. Jay Everson, 103 Branscome Boulevard, commented on signage on the turn lane as a frontage road, asking the Board to strike this condition, Items Nos. 13, 14, 15, and parking. Mr. Everson asked that the Board deny this application.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Icenhour asked staff in the event the current application is denied and Prime Outlets proceeds with by-right development, what level of approval would be required if they changed the current site plan.

Ms. Sipes stated that the changes suggested would be allowed under a site plan amendment or a new site plan, based on the Zoning Administrator's recommendation.

Mr. Icenhour asked if the site plan were amended, would this trigger compliance under current environmental regulations, or if they would be grandfathered.

Mr. John Horne stated that if a new site plan is brought forward, current regulations would apply. If an amendment could be dealt with under current stormwater approvals, it would apply.

Mr. Darryl Cook confirmed this.

Mr. McGlennon asked if the stormwater improvements in the original sections would be affected by changes in the site plan.

Mr. Cook stated it would not be affected.

Mr. Bradshaw asked if the sections of asphalt or right-turn lane would be permitted under this language based on Mr. Everson's idea.

Mr. Horne responded that it would be permitted.

Mr. Bradshaw asked if the free trolley suggestion was a specific condition.

Ms. Sipes stated the trolley was above-and-beyond the conditions; although there was a condition for a bus transfer station.

Mr. McGlennon asked if the staff's concern was that the construction would occur by the time the first building opens.

Ms. Sipes stated they wanted the parking engineering as soon as possible and the parking completion and building opening to be concurrent.

Mr. McGlennon asked if there was an alternate deadline that would work for the County and the applicant.

Ms. Sipes said she did not have an alternative deadline.

Mr. Goodson asked if the Certificate of Occupancy would be withheld until the parking was completed.

Staff confirmed there was a condition that the Certificate of Occupancy would be issued when the buildings and parking facility were completed.

Mr. McGlennon asked if there would be another point in the plan that could be used as a deadline to get the parking facility.

Mr. Goodson stated there could be a motion to approve and then a motion to amend the approval at the next meeting.

Mr. Rogers stated staff would be looking for Board guidance; and in the event of a motion for reconsideration, a member that voted in favor of approval could recommend reconsideration of the approved resolution.

Mr. Bradshaw asked the applicant how this would affect the applicant's plans and time frame.

Mr. Davis stated the applicant's concern was that the approval could be reconsidered.

Mr. Rogers stated the motion to reconsider would be very specific, that a portion may be allowed to be built and then require the structured parking in place prior to further construction.

Mr. Bradshaw stated the structured parking has only recently come up and asked what kind of guidance staff would want to reconsider flexibility of development before structured parking was completed.

Mr. Horne stated the conditions lie between the buildings, but it was his opinion there was not a workable arrangement where the applicant could build all the buildings and not occupy them. Mr. Horne stated that if the Board was comfortable enough with the parking, it should allow construction and permit the buildings to be fully occupied before additional parking.

Mr. Bradshaw made a motion to approve the resolution.

Mr. Bradshaw stated the community commercial properties with more than 2,000 square feet of development does not encourage an increase in square footage. Mr. Bradshaw stated the proposal would be superior to the existing development, or what could be developed by-right, which is an instance where he may vote for something contrary to the Comprehensive Plan.

Mr. Harrison asked staff to speak on Item No. 15 on "Conditions Specific to Phases 7 and 8."

Ms. Sipes stated when the validity of the approved site plan was reversed and the legal decision was that the site plan is valid and the applicant could go forward with an alternate site plan, they could both be valid until either of them is implemented.

Mr. Goodson asked if this was included for clarification.

Ms. Sipes confirmed this.

Mr. Icenhour asked about the 200,000-square-foot limit of the Comprehensive Plan that went into effect in 1991; at that point Ewell Station was 69,000 square feet and Prime Outlets was 170,000 square feet. Mr. Icenhour stated the development was over 200,000 square feet at the time it went into effect and subsequent increases resulted in about two and a half times this limit. Mr. Icenhour asked if this concern was raised in former SUP hearings.

Staff stated this has not come forward historically.

Mr. Icenhour expressed his continued concern about the parking at the development, with an addition of 50,000+ square feet without requiring more parking. He expressed his concerns about traffic in the area, especially with approved and undeveloped homes in the area. Mr. Icenhour stated this development was not in compliance with the Comprehensive Plan. Mr. Icenhour stated he could not support this application.

Mr. McGlennon stated the loss of community services in the area would be unfortunate but inevitable and that Prime Outlets has benefited the County, but the main reasons for his support were improvements, including those to the existing facility. Mr. McGlennon stated he would prefer less impervious space and fewer parking spaces, but it is often difficult to find parking. He will not address problems on the busiest

shopping days, valet parking, shuttle from off-site parking; would go a long way to address concerns for not only difficult but dangerous situations. Mr. McGlennon stated he hoped there would be an agreement that supports the application, and would move for reconsideration.

Mr. Goodson stated the pre-existing parking issues mitigate parking of expanded development and current development.

Mr. Harrison questioned how to deal with parking on Olde Towne Road and asked if the Police Department would begin enforcing this.

Mr. Wanner stated that the County will contact VDOT to ensure legal rights for parking enforcement.

On a roll call vote, the vote was: AYE: Harrison, McGlennon, Bradshaw, Goodson (4). NAY: Icenhour (1).

RESOLUTION

CASE NO. SUP-4-06/MP-1-06. PRIME RETAIL MASTER PLAN AMENDMENT

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit (SUP) process; and

WHEREAS, Mr. Greg Davis has applied on behalf of Prime Retail, L.P., for an SUP to allow an expansion of approximately 81,000 square feet on existing and adjacent sites; and

WHEREAS, Mr. Greg Davis has also applied to amend the existing conditions of approval of James City County Case Nos. SUP-25-05 and MP-10-05; and

WHEREAS, the conditions listed below replace and supersede the conditions of approval of James City County Case No. SUP-25-05; and

WHEREAS, the proposed expansion is shown on the Master Plan prepared by LandMark Design Group, dated May 26, 2006, and entitled "Master Plan Prime Retail Phases I-VIII" and the "Master Plan" and references to phases below refer to phases shown on the Master Plan;

WHEREAS, the property is located on land zoned B-1, General Business, with proffers that can be further identified as Parcel Nos. (1-28), (1-29), (1-33C), (1-33D), and (1-33E) on James City County Real Estate Tax Map No. (33-3) and on land zoned B-1, General Business, that can be further identified as Parcel No. (1-2) on James City County Real Estate Tax Map. No. (33-3); and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 5, 2006, recommended approval of this application by a vote of 5-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 4-06 as described herein with the following conditions:

Conditions Specific to the Phase 5A Expansion

1. Landscaping planters (the type and size of planters to be specified by the landscaping plan) along the entire store frontage of the Phase 5A Expansion as shown on the Master Plan, shall be approved by the Planning Director or his designee prior to final site plan

approval for any future expansion. The planters shall be installed prior to issuance of any final Certificate of Occupancy for any future expansion.

2. Applicant has installed a 35-foot-wide transitional buffer planted along the northern most property line adjacent the 5A expansion. This area has been planted and shall be maintained at 133 percent of the numerical standards found in Section 24-94 of the James City County landscape ordinance, and with an emphasis on evergreen shade and understory trees as determined by the Planning Director. The fence already installed in this area shall be a maximum of eight feet high and shall be maintained with a vinyl coating and shall be either black or green in color. Furthermore, the fence shall be maintained with a setback from the property line of at least three feet.

Conditions Specific to the Phase 6 Expansion

1. Prior to final site plan approval for the Phase 6 expansion, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 6 expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase 6 expansion, submitted with this SUP application dated, July 6, 2005, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
2. Prior to the issuance of any final Certificate of Occupancy for the Phase 6 expansion, lighting shall be installed for all three entrances from the property onto Richmond Road as shown on the Master Plan. In addition, adequate parking lot lighting shall be installed in the new 43-space parking lot as shown on the Master Plan behind Phase 6 which will be re-stripped from existing parking for buses to parking for cars. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
3. A landscaping plan for the Phase 6 expansion, including foundation landscaping in accordance with James City County Code Section 24, shall be approved by the Planning Director or his designee prior to final site plan approval.
4. Prior to submission of any development plan for the Phase 6 expansion, the applicant shall submit a water and sanitary sewer Master Plan and hydraulic analyses for the expansion space for review and approval by the James City Service Authority (JCSA).

Conditions Specific to the Phases 7 and 8 Expansions

1. Prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), a mass transit plan in accordance with Section 25-59(f) of the James City County Code shall be approved by the Planning Director for Prime Retail. The plan, at a minimum, shall include a replacement bus transfer stop for Williamsburg Area Transit, or its successor, currently located in the Ewell Station shopping center. Installation of all bus stops, shelters and other items approved as part of the mass transit plan shall be completed prior to issuance of any temporary or final Certificate of Occupancy for the Phase 7 and 8 expansions.
2. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 7 and 8 expansions, including exterior architectural modifications to the existing Ewell Station

Shopping Center. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, "Prime Outlets Phase 7 and 8 Expansion," submitted with this SUP application dated, February 20, 2006, and drawn by Gary S. Bowling, Guernsey Tingle Architects.

3. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), a landscape plan including foundation landscaping in accordance with James City County Code Chapter 24, shall be approved by the Planning Director or his designee.
4. Landscape waivers are necessary for the approval of parking and stormwater facilities in the Community Character Corridor landscape area along Richmond Road, as shown on the Master Plan. Such waivers shall be subject to the approval of the Development Review Committee.
5. Landscaping shall be installed or bonded, prior to issuance of any temporary or final Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the Master Plan), along the entire Richmond Road frontage of the existing and expanded Prime property that exceeds plant material size requirements in Section 24-90 of the James City County Code by 125%. Such landscaping shall be included on the site plan for the final building to be constructed (Building A, B, or C as shown on the Master Plan), and subject to approval by the Planning Director.
6. Landscaping shall be installed or bonded prior to any Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the Master Plan), along the Olde Towne Road frontage that meets current ordinance requirements. Such landscaping shall be included on the site plan for the final building to be constructed, and subject to approval by the Planning Director.
7. Prior to the issuance of any final Certificate of Occupancy for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan) lighting shall be installed for the existing entrances from the property onto Olde Towne Road as shown on the Master Plan. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
8. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan). The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote the intent of this condition which is to conserve water and minimize the use of public water resources to the greatest extent possible.
9. Approved site plans for the Phase 7 and 8 expansions shall reflect the following stormwater management facility improvements:
 - a. PC-186 (located along Olde Towne Road): Infiltration capacity shall be added in accordance with approved James City County Site Plan 110-02, or equivalent measures provided as approved by the Environmental Director;
 - b. PC-124 (located along Olde Towne Road): Shall be retrofitted to improve water quality in accordance with approved James City County Site Plan 110-02, or

- equivalent measures provided as approved by the Environmental Director;
- c. PC-036 (behind the existing Food Lion): Shall be retrofitted to incorporate water quality treatment as approved by the Environmental Director; and
- d. Pre-treatment measures shall be incorporated into development plans as approved by the Environmental Director.

The sequence of construction shall be approved by the Environmental Director, but under no circumstances shall the aforementioned stormwater facilities be completed later than the first Certificate of Occupancy being issued for the final building to be constructed as part of the Phases 7 and 8 expansions (Building A, B, or C as shown on the Master Plan).

10. Stormwater facility PC-055 (along Richmond Road) shall be modified to incorporate water quality and increased water quantity control as approved by the Environmental Director as part of the site plan reflecting improvements to PC-066 and PC-036 as outlined above.
11. The existing stormwater management facilities PC-066 and PC-036 serving the property, subject to the limitations hereinafter provided, shall be reconstructed to permit ground level parking of approximately 237 spaces co-located in, atop and around such facility, as generally depicted on the Master Plan. Building A, as shown on the Master Plan, is permitted to be constructed and occupied, provided a parking ratio of at least 1 space per 177 square feet of retail space, consistent with the approved Master Plan, is available to customers on the Ewell Station parcel (not counting construction staging areas) prior to the issuance of any Certificate of Occupancy for Building A, as shown on the Master Plan, and provided the site plan for Building A, as shown on the Master Plan, also reflects all associated parking intended to achieve the aforementioned required parking ratio.

Prior to issuance of any Certificate of Occupancy for Building A, the above referenced stormwater facilities/parking reconstruction shall be completed or surety shall be provided in an amount acceptable to the Environmental Director and County Attorney. Said amount shall include any related engineering costs necessary to produce final approval of plans and to complete construction of said project.

Said stormwater facilities/parking reconstruction shall be completed prior to the issuance of any Certificate of Occupancy for Buildings B or C, as shown on the Master Plan or within twelve months of any Certificate of Occupancy being issued for Building A, as shown on the Master Plan, whichever is earlier.

Stormwater facilities/parking reconstruction of PC-066 and PC-036 shall be reflected on a single site plan. Said site plan shall also reflect improvements to PC-055 as described in Condition #10.

Furthermore, the proposed interconnectivity and demolition of a portion of existing Phase I of Prime Retail, and related parking areas, as shown on the Master Plan, shall be complete within six months of any Certificate of Occupancy being issued for Building A, as shown on the Master Plan. The Planning Director may, in writing and in his sole discretion, agree to extend this deadline for no more than six months for good cause shown including, but not limited to, weather delays, unavailability of subcontract labor, or force majeure.

Reconstruction shall be in accordance with all applicable stormwater management

ordinances and regulations, and subject to approval by the Environmental Director. Specifically, PC-066 shall be modified to meet the current County requirements for both water quality and channel protection, and PC-036 shall be modified to incorporate water quality protection. The parking reconstruction shall be implemented unless the Environmental Director determines that it cannot be achieved (a) due to engineering constraints, (b) due to environmental, stormwater management or other regulations, ordinances or laws, or (c) that the reconstruction cannot be achieved using soil-covered RainTank (R) devices and Eco-Stone Pavers or equivalent underground stormwater storage units and pervious cover approved by the Environmental Director.

In the event the parking reconstruction is not implemented as described above, the Applicant shall perform and submit a Parking Study, the methodology and parameters of which are subject to approval of the Planning Director. Said study shall be approved by the Board of Supervisors, upon recommendation of the Planning Commission, prior to any Certificate of Occupancy for the last two buildings to be constructed (Building A, B, or C as shown on the Master Plan). Specific elements of the study shall include: the identification of the existing parking inventory for Prime Outlets at the time of analysis, the occupancy rate of parking inventory for Prime Outlets for identified periods of analysis, an employee parking analysis, and improvement recommendations. Said site plans shall incorporate approved improvement recommendations.

12. The following road improvements were identified in the "Prime Outlets Phases 7 & 8 Traffic Impact Study" prepared by LandMark Design Group and submitted in February 2006 and revised in June 2006. These improvements are submitted to approval by VDOT and the Planning Director, and shall be made prior to the issuance of any Certificate of Occupancy for any of the proposed additional buildings in the Phase 7 & 8 expansions (Building A, B, or C as shown on the Master Plan):
 - a. Install dual exclusive left-turn lanes with 250 feet of storage and 200-foot tapers on westbound Richmond Road at Olde Towne Road.
 - b. Widen southbound section of Olde Towne Road from Richmond Road to first shopping center entrance ("Bowling Alley entrance") to two full-width lanes, creating two receiving lanes for the dual left-turn lanes referenced in condition (a) above. The outside lane will be a right-turn "drop" lane and the inside lane will serve as a through travel lane.
 - c. Install an exclusive left-turn lane with 200 feet of storage and 200-foot-taper on eastbound Richmond Road at Olde Towne Road to accommodate U-turn movement from eastbound Richmond Road to westbound Richmond Road. Install necessary traffic signal equipment to accommodate the U-turn movement with a protected left-turn phase at the intersection, and install appropriate signage, subject to VDOT approval.
 - d. Modify traffic signal timings and necessary traffic signal equipment at the Richmond Road/Olde Towne Road intersection to accommodate proposed lane configurations and identified new traffic movements.
 - e. Modify traffic signal timings along the Richmond Road corridor to optimize the coordinated system from Airport Road to the western signalized entrance to the property.
 - f. Remove sections of asphalt or otherwise modify the existing continuous right-turn lane on eastbound Richmond Road, subject to approval by VDOT and the Planning Director.
13. A Signal Warrant Analysis for the Olde Towne Road/shopping center entrances must be submitted for approval by VDOT and the Planning Director within 18 months of

issuance of the demolition permit for the vehicular access through the existing Phase I building, and prior to final site plan approval for the last two buildings to be constructed (Buildings A, B, or C as shown on the Master Plan). A second Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the Master Plan). In the event a single site plan is submitted and approved for the entire expansion, one Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the Master Plan). The analyses shall satisfy VDOT Standard Signal Warrant Analysis requirements, subject to approval by VDOT and the Planning Director. Should traffic signal warrants be met, Applicant shall provide traffic signal(s), and necessary traffic signal equipment (including that associated with cross-coordination of traffic signals) at the Olde Towne Road shopping center entrance(s) in a manner acceptable to VDOT and the Planning Director. Furthermore, Applicant shall provide signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) such that the potential traffic signal(s) shall be coordinated with the Richmond Road/Olde Towne Road traffic signal, subject to the approval of VDOT and the Planning Director. Applicant shall also provide traffic signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) for the identified Richmond Road study area traffic signals to best optimize traffic progression, subject to approval of VDOT and the Planning Director. Such signal(s) and coordination improvements shall be guaranteed by surety prior to issuance of the building permit for the final phase of expansion (either Building B or Building C, as shown on the Master Plan).

14. Upon completion of the first building to be constructed (Building A, B, or C as shown on the Master Plan), and the vehicular access through the existing Phase I, and the parking area behind the adjacent hotel, as shown on the Master Plan, Applicant shall provide an evaluation of potential access driveway closures or implementable access management strategies along Richmond Road and Olde Towne Road. Said evaluation shall be subject to the approval of VDOT, the Planning Director, and the Development Review Committee prior to any Certificate of Occupancy for the final phase of expansion (Buildings B and C as shown on the Master Plan). Such improvements shall be guaranteed by surety prior to issuance of a building permit for the final phase, as described above.
15. Approval of this SUP shall not invalidate the Ewell Station shopping center Phase 2 site plan titled "SP-110-02." SP-110-02 shall be invalidated when construction is commenced pursuant to any site plan associated with this SUP. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

Conditions Applicable to all Phases of Prime Retail

1. This SUP shall be valid for the approximately 81,000-square-foot expansion of Prime Retail Phases 7 and 8. The total gross building area shall not exceed 518,264 sq. ft. as shown on Master Plan Titled "Prime Retail Phases I-VIII" dated June 21, 2006, and prepared by LandMark Design Group (The "Master Plan").
2. Development of the site shall be generally in accordance with the above-referenced Master Plan and any questions as to compliance shall be determined by the Development Review Committee (DRC). Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This SUP and

these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-25-05 and prior SUP conditions affecting the Prime Retail development.

3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines (with the exception of entrance lighting required herein). The use of temporary flood lighting shall be prohibited unless written approval is obtained by the Planning Director for use during a special event.
4. Prior to any final site plan approval for future expansion, all new and existing dumpsters shall be (a) in locations approved by the Planning Director, and (b) screened by landscaping or fencing as approved by the Planning Director.
5. Prior to issuance of any Certificate of Occupancy for any expansion, the applicant shall complete the following: (1) internal driveways shall be designated as "One Way" traffic only, where applicable; (2) fire lane shall be properly marked in accordance with the Virginia Fire Code; and (3) the applicant shall install signage for the rear parking lots and service drives clearly indicating the existence of additional parking spaces for customers and employees. Prior to installation of any new signage, the applicant shall prepare and submit a comprehensive signage plan for review and approval by the Planning Director.
6. If construction has not commenced on this project within 36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
7. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Mr. McGlennon made a motion to reconsider Condition No. 11 at the July 11, 2006, Board meeting to allow flexibility for Prime Retail to build one or more buildings while the structured parking was being engineered.

Mr. Goodson asked how to go about giving staff direction on this application.

Mr. Rogers stated the reconsideration was to allow for flexibility for one or more buildings to be built while ensuring the structured parking would be completed.

Mr. Harrison asked if the single large building would be built, or the two smaller buildings would be built prior to constructing the structured parking.

Mr. Goodson indicated that would be the guidance the Board would give to staff.

Mr. Rogers stated staff is looking for how much square footage may be built and he believed the developer needed to be consulted.

Mr. McGlennon asked how much square footage would be open on the completion of the larger building.

Mr. Horne stated it would be 53,000 additional square feet.

Mr. McGlennon asked how much parking was associated with the development.

Mr. Steve Romeo, engineer for the applicant, stated it was 5.9 parking spaces per 1,000 square feet.

Mr. Rogers stated there was a 6,000-square-foot reduction that needs to be eliminated to allow interconnectivity and access to the back of the buildings.

Mr. McGlennon stated he would like to make sure there is more parking than required by the ordinance prior to the new facility being constructed.

Mr. Harrison asked if one of the entrances would be closed when the new building opened.

Mr. Bradshaw stated that was part of a later traffic study and would not be required to be closed when the building opened.

Mr. Goodson stated the applicant's request was to move forward with the larger building, and the guidance was that the building would not be occupied until the structured parking was in place.

Mr. McGlennon stated no additional construction could take place before the parking was in place.

Mr. Horne stated the parking that would be provided for the additional buildings would be significantly above the ordinance requirements.

Mr. Greg Davis asked for confirmation, that the reconsideration was limited to condition No. 11 related to the timing of construction of parking.

Mr. Rogers stated that was correct, but there may be a provision to provide bonding to Item No. 11, that may be required in order to provide a Certificate of Occupancy and the crossover may be addressed as well.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

2. Case No. ZO-07-05. Zoning Ordinance Amendments - Pedestrian-Oriented Signage in MU

Ms. Melissa C. Brown, Zoning Officer, stated that the development community working in the New Town Mixed Use District has requested several changes to the current provisions of Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs. The changes were requested due to the special nature of New Town (and possible future similar developments) and the unique opportunities and challenges that this type of development fosters.

The intention in New Town is to create a pedestrian-oriented development, with "higher densities and a broader spectrum of land uses," as defined in the Comprehensive Plan. The Planning Division recognized the need to amend the current Exterior Sign Ordinance to allow for types of signage that would support this development, and future, similar Mixed Use developments like it. Currently, permitted signs are geared toward helping motorists locate a business rather than pedestrians. In contrast, pedestrians looking for a business in urban areas have different needs due to more limited sight distances and the location of buildings behind street trees. To facilitate the development of a suitable amendment to the current Ordinance, the

Planning staff worked with the senior Development Management staff, the planning departments of other localities, the New Town Design Review Board, and the James City County Attorney's Office. Site visits were conducted and documented to provide examples of appropriate signage for pedestrian-oriented Mixed Use development.

Staff found the changes to the Zoning Ordinance contained in the proposed amendment will help facilitate and enhance the types of development being sought in New Town and in similar projects within James City County by allowing for decorative banners to be displayed on light poles, which display the name of the shopping center or location.

At its meeting on June 5, 2006, the Planning Commission voted 4-2 to approve the ordinance amendment.

Staff recommended adoption of the ordinance amendment.

Mr. Harrison asked why the smaller businesses were not given the same amount of equity for visibility.

Ms. Brown stated the definition outlined in the Planning Commission minutes was deemed appropriate and left unchanged through several levels of review. Ms. Brown also indicated the zoning ordinance amendment would affect both shopping centers and mixed-use developments, although New Town was the only mixed-use development that would currently be affected, but there were small businesses that would benefit from the ordinance amendment, and no businesses would be granted special permission for these banners. Ms. Brown explained that the banners would be permitted to display the name of the shopping district, such as "New Town" or "Monticello Marketplace" rather than specific tenants of the District.

Mr. McGlennon asked if small businesses would have the poles on which to mount banners.

Ms. Brown stated Monticello Marketplace is an example of a district wherein small businesses would have the availability of light fixtures for signage.

Mr. McGlennon asked if this would be available for small businesses not associated with a center.

Ms. Brown stated that small businesses that are not part of a shopping center would not be permitted, as the banners should be in accordance with the size of the development.

Mr. Icenhour stated pole-mounted banners should not identify the tenants.

Ms. Brown stated that seasonal or holiday banners were permitted, as long as they do not advertise or state the location and name of the shopping center.

Mr. Icenhour asked if the shopping center logo would be allowed on the signs.

Ms. Brown stated this was correct.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Bradshaw made a motion to adopt the ordinance.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

3. An Ordinance to Amend and Reordain Chapter 2, Administration, Article V. Other Boards and Commissions, Section 2-17, Industrial Development Authority created, of the James City County Code, to reflect the name change of the Industrial Development Authority

Ms. Jennifer C. Lyttle, Assistant County Attorney, stated the ordinance would update the County Code for consistency with a resolution passed by the Board which renamed the Industrial Development Authority to the Economic Development Authority.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Harrison made a motion to adopt the ordinance.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

4. An Ordinance to Amend and Reordain Chapter 7, Enterprise Zone, Section 7-5, Local Enterprise Zone Incentives and Section 7-6, Application, of the James City County Code, to clarify the procedure and timeline for the application of local enterprise zone incentives

Mr. Doug Powell, Community Services Manager, stated the ordinance amendment required businesses that receive Local Enterprise Zone incentives to submit a grant renewal application by March 31 of each year and within two years of the submittal deadline or it would forfeit these incentives.

Mr. McGlennon asked to clarify that this sets a deadline for the application.

Mr. Powell stated this was correct.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. McGlennon made a motion to adopt the ordinance.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, thanked Mr. Icenhour for commenting on long-term impact of Board approvals.

I. PRESENTATION – DANA DICKENS, HAMPTON ROADS PARTNERSHIP - YEAR OF REGIONAL CITIZENSHIP

Mr. Dana Dickens gave a brief presentation on behalf of the Hampton Roads Partnership, made up of the mayors and chairs of 17 jurisdictions, and its mission to make Hampton Roads more competitive and more interdependent. Mr. Dickens congratulated the County on its newest business partner, Avid Medical, and recognized that when James City County prospered, the Hampton Roads region prospered. Mr. Dickens announced that the Hampton Roads Partnership declared April 26, 2006, to April 26, 2007, the Year of Regional Citizenship and called on Hampton Roads communities to reflect on its shared history and

interdependence, seek reliance, diversity, and a higher quality of life. Mr. Dickens encouraged projects which brought together local government officials to look for opportunities for alliances. Mr. Dickens highlighted that the significance of April 26 signified that was the day three ships sailed from England landing at Fort Story, the beginning of this country's first region. Mr. Dickens presented the Board with a Proclamation signed by the mayors and chairs of the region, including Mr. Goodson that declared April 26, 2006-April 26, 2007 to be the Year of Regional Citizenship.

Mr. Goodson thanked Mr. Dickens on behalf of the Board for his efforts on behalf of the Hampton Roads Partnership.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner congratulated the Fair Committee for the success of the Fair.

Mr. Wanner read a press release from the Office of Governor Timothy M. Kaine announcing the expansion of Avid Medical in James City County by investing \$7.9 million, doubling its 90,000-square-foot facility at Stonehouse Commerce Park to create approximately 300 new jobs. Mr. Wanner stated the Virginia Economic Development Partnership, the James City County Office of Economic Development, the James City County Economic Development Authority, and the James City Service Authority worked together to steer the project for Virginia, and the Governor approved a \$700,000 grant from the Governor's Opportunity Fund for the project. Mr. Wanner stated that Mr. Goodson was quoted in the announcement. Mr. Wanner stated that this was evidence that James City County was open for business.

Mr. Wanner stated there needed to be a JCSA meeting, Williamsburg Area Transport (WAT) meeting, and upon completion of the Board Requests and Directives, there would be a Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, for the consideration of personnel matters, the appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, for the consideration of a legal matter to consult with legal counsel requiring the provision of legal advice. Mr. Wanner suggested, following the Closed Session, the Board adjourn until July 11, 2006, at 7 p.m.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw commented that his potatoes won 2nd place at the County Fair.

Mr. McGlennon asked about a report on burning regulations in the County.

Mr. Wanner stated he would follow up on this matter.

Mr. Icenhour stated he would like to revisit the open burning issue.

Mr. Goodson congratulated the James City County Parks and Recreation Division for winning the 2006 NACo award for the Inclusion Program that looks at all programs available and ensures that many of them are accessible to the disabled. They will be recognized at the National Association of Counties National Conference.

Mr. Goodson recessed the Board for meetings of the JCSA and WAT Boards of Directors.

Mr. Goodson reconvened the Board at 9:15 p.m.

L. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, for the consideration of personnel matters, the appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, for the consideration of a legal matter to consult with legal counsel on a specific legal matter requiring the provision of legal advice.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

At 9:17 p.m., Mr. Goodson convened the Board into Closed Session.

At 10:13 p.m., Mr. Goodson reconvened the Board into Open Session.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(7), to consider a legal matter to consult with legal counsel on a specific legal matter requiring the provision of legal advice.

No appointment was made to the Economic Development Authority.

Mr. Harrison made a motion to appoint Mr. Michael E.G. Kirby to the Williamsburg Area Arts Commission, term to expire June 30, 2009.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5). NAY: (0).

The Board and staff briefly discussed a legal matter involving the school contract negotiation.

M. ADJOURNMENT

Mr. McGlennon made a motion to adjourn until 7 p.m. on July 11, 2006.

On a roll call vote, the vote was: AYE: Harrison, Icenhour, McGlennon, Bradshaw, Goodson (5)
NAY: (0).

At 10:20 p.m., Mr. Goodson adjourned the Board until 7 p.m. on July 11, 2006.

Sanford B. Wanner
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF AUGUST 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District - Absent
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

Mr. McGlennon requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Timothy Mitchell, a rising twelfth-grade student at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Daniel Gagne, 4716 Bristol Circle, Westray Downs Homeowners Association President, commented on repaving of roadways in the subdivision.

2. Mr. Bob Tyndall, 3313 New Castle Drive, Vice President of Westray Downs Homeowners Association, commented on roads in the subdivision and spoke about unsafe pavement.

3. Mr. Henry Howell, on behalf of the Letitia Hanson Trust and two trustees, commented on the Matoaka School agenda item, asking for an extension before action was taken on this matter. Mr. Howell stated a court hearing was set for November 8, 2006, in Spotsylvania County to determine whether or not the County may proceed with the condemnation of the property for the 8th elementary school. Mr. Howell stated the property was a historical site of the Battle of Green Spring, and the County had not taken enough land for the school. Mr. Howell stated the County was rushing construction by beginning improvements on September 17, 2006.

4. Mr. Ed Oyer, 139 Indian Circle, commented on apathy.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Williamsburg, stated the bike trails, Monticello/Ironbound Road intersection improvements are in line to meet the schedule.

Mr. McGlennon asked Mr. Brewer to comment on subdivision pavement.

Mr. Brewer stated he would look into the subdivision pavement schedule and use judgment as to whether or not to pave.

Mr. McGlennon asked what the budget was for pavement of streets in subdivisions.

Mr. Brewer stated there would not be more money this year than last year.

Mr. McGlennon asked when the schedule would be released.

Mr. Brewer stated this year's schedule would be released in the fall.

Mr. Harrison asked when someone would be available to look at the pavement.

Mr. Brewer stated the site could be evaluated this week.

Mr. Harrison stated there may be pothole work this year and noticed resurfacing needs to be scheduled for the next year.

Mr. Brewer stated that it was dependent on the street and how much can be done at a time.

Mr. McGlennon asked if there were other subdivisions that experience being passed over for repaving.

Mr. Brewer stated the choice was not always local as to what subdivisions get cut.

Mr. McGlennon asked when the repaving of Jamestown Road would be completed.

Mr. Brewer stated the schedule indicated the end of the month.

Mr. Icenhour asked about repaving of Longhill Road.

Mr. Brewer stated Longhill Road would be paved through to Centerville Road.

Mr. Bradshaw asked Mr. Brewer to look at the subdivision of Norvalia and streets near Church Lane for repaving and asked to be made aware of the schedule for repaving in that area. Mr. Bradshaw also stated that though resources are limited, there was still a priority of providing safe and sufficient transportation and road maintenance.

F. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the items on the consent calendar, including the minutes of July 25, 2006, as amended.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4), NAY: (0).

1. Minutes - July 25, 2006 Regular Meeting
2. Erosion and Sediment Control Ordinance Violation - Civil Charge - Warren E. Barnes, Sr.

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION -

CIVIL CHARGE – WARREN E. BARNES SR.

WHEREAS, on or about March 20, 2006, Warren E. Barnes, Sr., (the “Owner”), violated or caused a violation of the County’s Erosion and Sediment Control Ordinance by disturbing land without a permit at 164 The Maine, Williamsburg, Virginia, designated as Parcel No. (2-55) on James City County Real Estate Tax Map No. (45-4) and hereinafter referred to as (the “Property”); and

WHEREAS, Warren E. Barnes, Sr., has abated the violation at the Property; and

WHEREAS, Warren E. Barnes, Sr., has agreed to pay \$500 to the County as a civil charge under the County’s Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$500 civil charge from Warren E. Barnes, Sr., Owner, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

3. Virginia Department of Transportation Project – Ironbound Road (Route 615) Widening and Improvements

RESOLUTION

VIRGINIA DEPARTMENT OF TRANSPORTATION PROJECT NOS. OT0615-047-169, PE101,

RW201, C501, AND IRONBOUND ROAD (ROUTE 615) WIDENING AND IMPROVEMENTS

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Six-Year Secondary System Construction Program; and

WHEREAS, the James City County Board of Supervisors had previously agreed to assist in the preparation of the Program, in accordance with VDOT policies and procedures, and participated in a public hearing on the proposed Program (2006/07 through 2011/12) as well as the Construction Priority List (2006/07) on December 13, 2005, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Program and Priority List; and

WHEREAS, James W. Brewer, Residency Administrator of VDOT, appeared before the Board of Supervisors and recommended approval of the Six-Year Program for Secondary Roads

(2006/07 through 2011/12) and the Construction Priority List (2006/07) for James City County, and the Board of Supervisors subsequently approved the Six-Year Program for Secondary Roads (2006/07 through 2011/12) and the Construction Priority List (2006/07) for James City County on December 13, 2005; and

WHEREAS, On June 28, 2006, a Design Public Hearing was held that related specifically to the Ironbound Road improvements portion of the Six-Year Program for Secondary Roads plan previously described, herein identified as VDOT Project Nos. 0615-047-169, PE101, RW201, C501, and Ironbound Road (Route 615) widening and improvements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses and approves the proposed VDOT Project Nos. 0615-047-169, PE101, RW201, C501, and Ironbound Road (Route 615) widening and improvements, as presented at the Design Public Hearing in concept, and will continue to work with the VDOT to resolve outstanding design issues in a timely manner.

4. Resolution Authorizing the Execution and Delivery of a Continuing Disclosure Agreement in Connection with the Issuance by the Virginia Public School Authority of its School Financing Bonds (1997 Resolution) Refunding Series 2003 D, a Portion of the Proceeds of which Refunded the James City County General Obligation School Bonds, Refunding Series 1994 A; and Authorizing Any Other Actions Necessary to Achieve the Objectives Contemplated Hereby

RESOLUTION

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING
DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA
PUBLIC SCHOOL AUTHORITY OF ITS SCHOOL FINANCING BONDS (1997 RESOLUTION)
REFUNDING SERIES 2003 D, A PORTION OF THE PROCEEDS OF WHICH REFUNDED THE
JAMES CITY COUNTY GENERAL OBLIGATION SCHOOL BONDS, REFUNDING SERIES 1994
A; AND AUTHORIZING ANY OTHER ACTIONS NECESSARY TO ACHIEVE THE OBJECTIVES

CONTEMPLATED HEREBY

WHEREAS, the Virginia Public School Authority (the "Authority") pursuant to (i) a bond resolution adopted on May 21, 1963, as amended (the "1963 Resolution"); (ii) a bond resolution adopted on August 13, 1987, as amended and supplemented (the "1987 Resolution"); and (iii) a bond resolution adopted on October 23, 1997, as amended, restated and supplemented (the "1997 Resolution") issued bonds (respectively, the "1963 Resolution Bonds", the "1987 Resolution Bonds" and the "1997 Resolution Bonds") for the purpose of purchasing general obligation school bonds of certain cities and counties within the Commonwealth of Virginia; and

WHEREAS, the Authority used a portion of the proceeds of certain 1963 Resolution Bonds and certain 1987 Resolution Bonds to purchase certain duly authorized and issued general obligation school bonds of the James City County, Virginia (the "County") designated the James City County School Bonds, Series of 1987A, Series of 1988, Series 1990A, Series 1990B and 1991 Series B and the James City County General Obligation School Bond, Series 1992 Series A ("Prior Local School Bonds"); and

WHEREAS, the Authority has issued under the 1987 Resolution two series of 1987 Resolution Bonds designated as “School Financing Bonds (1987 Resolution) 1991 Refunding Series C (the “Series 1991 C Bonds”) and “School Financing Bonds (1987 Resolution) 1993 Refunding Series B” (the “Series 1993 B Bonds”); and

WHEREAS, the Authority refunded certain 1963 Resolution Bonds and certain 1987 Resolution Bonds with a portion of the proceeds of its Series 1991 C Bonds and Series 1993 B Bonds and, in connection therewith, the County exchanged its Prior Local School Bonds with a duly authorized and issued general obligation school bond designated the James City County General Obligation School Bond, Refunding Series 1994 A (the “Local School Bonds”); and

WHEREAS, the Authority refunded its Series 1991 C Bonds and Series 1993 B Bonds (“Refunded Bonds”) with a portion of the proceeds of its Virginia Public School Authority School Financing Bonds (1997 Resolution) Refunding Series 2003 D (the “Refunding Bonds”) issued pursuant to the 1997 Resolution; and

WHEREAS, the Authority in refunding the Refunded Bonds has pledged the Local School Bonds for the benefit of the holders of bonds issued under its 1997 Resolution; and

WHEREAS, the Authority is required to assist the underwriters (the “Underwriters”) of the Refunding Bonds with their duty to comply with Securities and Exchange Commission (“SEC”) Rule 15c2-12 (the “Rule”); and

WHEREAS, the Authority has requested the County to execute a Continuing Disclosure Agreement in order for the Authority to assist the Underwriters in complying with the Rule, and;

WHEREAS, the Board of Supervisors of the County of James City County, Virginia, considers it to be advisable for the County to fulfill the request of the Authority to execute a Continuing Disclosure Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia,

1. Continuing Disclosure Agreement.

The Chairman of the Board of Supervisors, the County Administrator, and such officer or officers as they may designate, are hereby authorized to enter into a Continuing Disclosure Agreement substantially in the form attached as Appendix A hereto, containing such covenants as may be necessary in order for compliance with the provisions of the Rule, and any other documents the Authority deems necessary to comply with the SEC rules and any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

2. Use of Proceeds Certificate.

The Chairman of the Board of Supervisors, the County Administrator, and such officer or officers as they may designate, are hereby authorized to enter into a Use of Proceeds Certificate substantially in the form attached as Appendix B hereto, containing such covenants as may be necessary in order for compliance with any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

3. Further Actions.

The members of the Board and all officers, employees, and agents of the County are hereby authorized to take such action as they, or any one of them, may consider necessary or desirable in connection with the execution and delivery of the Continuing Disclosure Agreement and the Use of Proceeds Certificate and maintaining the tax-exempt status of the bonds, and any such action previously taken is hereby ratified and confirmed.

4. Effective Date.

This resolution shall take effect immediately.

5. Resolution of Inducement Financing the Site Acquisition, Construction, and Equipment of the College of William and Mary Foundation's Discovery I Building at New Town

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF JAMES CITY COUNTY, VIRGINIA**

The Economic Development Authority of James City County, Virginia (the "Authority"), has considered the application of The College of William & Mary Foundation (formerly, The Endowment Association of the College of William and Mary in Virginia, Incorporated) (the "Foundation"), requesting the issuance of the Authority's revenue bonds in a principal amount not to exceed \$9,500,000 (the "Bonds"). The proceeds of the Bonds will be used to assist the Foundation in financing or refinancing the acquisition, construction and equipping of a three-story building in New Town and financing the cost of relocating employees to the building (the "Project"), which building will be located across from Sullivan Square at the corner of Ironbound and Discovery Roads in James City County, Virginia (the "County"). The Project is to be owned by the Foundation or an affiliate thereof, including a real estate foundation established for the benefit of The College of William and Mary in Virginia (the "College") and/or the Foundation, and will be leased to and used by the College as an office building and may also be used by the Foundation, its affiliates and related organizations. The Project is to be at the anticipated address of 5300 Discovery Park Boulevard, situated on approximately 2.25 acres of land and comprise approximately 35,000 square feet.

The Foundation is a nonprofit Virginia nonstock corporation that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. It has its principal place of business at 46 Tennis Court, Dillard Complex, College of William & Mary. The Foundation's primary charitable and educational purposes are to aid, strengthen and expand in every proper and useful way the work, usefulness and objects of the College, to develop, strengthen and utilize the ties of interest, sympathy and affection existing between the College and its alumni and friends throughout the country, to seek private funds, support and development for the College's benefit and to manage and distribute such funds to enhance the College's mission. The College is a higher educational institution constituting a public body and governmental instrumentality of the Commonwealth of Virginia and also has its principal place of business in Williamsburg.

Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"), provide that the highest elected governmental unit of the locality having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds. The Bonds will be issued by the Authority on behalf of the County, and the Project will be located in the County. The Board of Supervisors of James City County, Virginia (the "Board of Supervisors") constitutes the highest elected governmental unit of the County.

The Authority adopted an inducement resolution on July 20, 2006 (the “Inducement Resolution”), immediately following a public hearing held by the Authority on such date. In the Inducement Resolution, the Authority approved the acquisition, construction and equipping of the Project by the Foundation or an affiliate thereof, the issuance of the Bonds to assist the Foundation with the financing or refinancing of the Project, and recommended and requested that the Board of Supervisors approve of the issuance of the Bonds and the acquisition, construction, equipping **and** financing **or** refinancing of the Project. A copy of the Inducement Resolution, a reasonably detailed summary of the comments expressed at the Authority’s public hearing and the Foundation’s Fiscal Impact Statement have been filed with the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA:

1. The Board of Supervisors accepts the documents submitted to it by the Authority. The Board of Supervisors approves the issuance of the Bonds by the Authority in a principal amount not to exceed \$9,500,000 and approves the acquisition, construction, equipping and financing or refinancing of the Project. The Bonds may be issued in one or more series and from time to time. These approvals are given for the benefit of the Foundation, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code, and to permit the Authority to assist in the financing or refinancing of the Project.

2. The approval of the issuance of the Bonds and the acquisition, construction, equipping and financing or refinancing of the Project does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Foundation. Further, as required by Section 15.2-4909 of the Virginia Code, the Bonds shall provide that neither the Authority nor the County shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefore and neither the faith and credit nor the taxing power of the Commonwealth of Virginia nor any political subdivision thereof, including the Authority and the County, shall be pledged thereto.

3. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaim all liability for any damage to the Foundation or the Project, direct or consequential, resulting from the Authority’s failure to issue the Bonds for any reason.

4. This resolution shall take effect immediately upon its adoption.

6. Adoption of the Peninsula Multi-Jurisdictional Natural Hazard Mitigation Plan

RESOLUTION

ADOPTION OF THE PENINSULA MULTI-JURISDICTIONAL

NATURAL HAZARD MITIGATION PLAN

WHEREAS, James City County, seeking Federal Emergency Management Agency (FEMA) approval of its Hazard Mitigation Plan, recognizing the threat that natural hazards pose to people and property within our community; and

WHEREAS, undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

WHEREAS, an adopted Multi-Hazard Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

WHEREAS, James City County fully participated in the FEMA-prescribed mitigation planning process to prepare this Natural Hazard Mitigation Plan; and

WHEREAS, the Virginia Department of Emergency Management and Federal Emergency Management Agency, Region III, officials have reviewed the “Peninsula Multi-Jurisdictional Hazard Mitigation Plan” and approved it contingent upon this official adoption of the participating governments and entities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the “Peninsula Multi-Jurisdictional Natural Hazard Mitigation Plan” as an official plan.

BE IT FURTHER RESOLVED, that James City County will submit this adoption resolution to the Virginia Department of Emergency Management and Federal Emergency Management Agency, Region III, officials to enable the Plan’s final approval.

7. Authorization to Join the Peninsula Local Emergency Planning Committee

RESOLUTION

AUTHORIZATION TO JOIN THE PENINSULA LOCAL

EMERGENCY PLANNING COMMITTEE

WHEREAS, in 1986, Congress passed the Emergency Planning Community Right-to-Know Act as Title III of the Superfund Amendments and Reauthorization Act (SARA); and

WHEREAS, to implement Title III, Congress required each state to appoint a State Emergency Response Commission (SERC), which was required to divide their states into emergency planning districts and name a Local Emergency Planning Committee (LEPC) for each district; and

WHEREAS, the following jurisdictions: the City of Hampton, the City of Newport News, the City of Poquoson, and York County have joined together to meet this requirement by the establishment of the Peninsula Local Emergency Planning Committee (PLEPC); and

WHEREAS, being part of a joint LEPC will strengthen the coordination and interface between our jurisdictions and enhance all-hazards planning, training, and response initiatives within the region; and

WHEREAS, the PLEPC has agreed to admit James City County as a participant and the expenses required for participation can be met through an “in-kind” match utilizing County staff and facilities; and

WHEREAS, the citizens of James City County will benefit greatly through this joint effort.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the active membership and participation in the Peninsula Local Emergency Planning Committee (PLEPC).

8. Contract Award – Freedom Park Phase II-C Site Improvements

RESOLUTION

CONTRACT AWARD – FREEDOM PARK PHASE II-C SITE IMPROVEMENTS

WHEREAS, competitive bids were received for the Freedom Park – Phase II-C Site Improvements to be constructed in Freedom Park, at 5537 Centerville Road; and

WHEREAS, bids were received and Curtis Contracting, Inc. was the lowest responsive and responsible bidder with a bid price of \$214,978.35 which exceeded the project budget; negotiations were conducted with Curtis Contracting to obtain a contract price of \$167,706.60; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Freedom Park – Phase II-C Site Improvements in the total amount of \$167,706.60.

9. Award of Contract – Design and Construction of Artificial Turf Fields, District Park Sports Complex at Warhill

RESOLUTION

AWARD OF CONTRACT - DESIGN AND CONSTRUCTION OF ARTIFICIAL TURF FIELDS

DISTRICT PARK SPORTS COMPLEX AT WARHILL

WHEREAS, a Public Private Education and Facilities and Infrastructure Act of 2002 (PPEA) Request for Proposals for Design and Construction of Site Improvements and Roadways at the Warhill Sports Complex was advertised; three interested firms submitted proposals; and

WHEREAS, staff reviewed the proposals, interviewed Curtis Contracting, Inc. and Henderson, Inc., and selected Curtis Contracting, Inc. as the most fully qualified and best suited to the County's needs as defined in the Request for Proposals; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a Comprehensive Agreement contract with Curtis Contracting, Inc. for complete design and construction of recreational facilities including six artificial turf fields at the Warhill Sports Complex in an amount not to exceed \$6,679,281.88.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the negotiation and execution of the Comprehensive Agreement contract in an amount not to exceed \$6,679,281.88 with Curtis Contracting, Inc. for the Design and Construction of Recreational Facilities at the Warhill Sports Complex.

10. Williamsburg Regional Library 4th Amended and Restated Contract

RESOLUTION

WILLIAMSBURG REGIONAL LIBRARY 4TH AMENDED AND RESTATED CONTRACT

WHEREAS, the Williamsburg Regional Library Board of Trustees, the County Administrator, and Williamsburg City Manager have drafted an amended and restated contract for the Williamsburg Regional Library; and

WHEREAS, the Williamsburg Regional Library Board of Trustees approved the draft contract on July 20, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to sign the Williamsburg Regional Library's 4th Amended and Restated Contract.

G. PUBLIC HEARINGS

1. Case No. SUP-20-06. Wythe Will Commercial Expansion

Ms. Ellen Cook, Planner, stated Mr. Bill LaVancher of KTP, LLC, has applied to change uses of property located at 6623 Richmond Road, further identified on James City County Real Estate Tax Map No. (24-3) as Parcel No. (1-35A), consisting of 11.09 acres, zoned A-1, General Agricultural, and B-1, General Business, and designated on the Comprehensive Plan as Mixed Use. Mr. LaVancher has proposed to change uses to 25,298 square feet of skateboard park; 16,828 square feet of office; 69,278 square feet of mini-storage; and 3,590 square feet of retail candy store with no new building square footage. The parcel is located in the Yarmouth Creek watershed, and the applicant plans on upgrading the detention pond. The closest traffic crossover to the property is located at the pottery entrance traffic signal, and the creation of a connection reduces crossover use.

Staff found the proposal generally in compliance with the Comprehensive Plan for Mixed Use, with conditions. Staff stated the proposal does not alter existing entrance/exits and provides for further improvements and will enhance the Richmond Road community character corridor, as the applicant has worked with the County Attorney's Office to remove a billboard on the property.

On July 10, 2006, the Planning Commission voted for approval of this application by a vote of 6-0. Staff recommended approval of the resolution.

Mr. McGlennon commented on access to the property from Richmond Road and the potential for increased crossovers on Richmond Road. Mr. McGlennon asked staff to strongly encourage the property owners to work with the adjacent property owners.

Ms. Cook stated there was an existing proffer on the Noland Property that preserves right-of-way. Ms. Cook explained that although it could not be a guarantee, language could be added in a condition to address the crossover requiring right-in and right-out access to the property.

Mr. Icenhour asked Ms. Cook if there would be a new BMP constructed in the front of the building in addition to the existing BMP that would be upgraded to current standings at the rear of building, as this was not listed as a condition.

Ms. Cook stated this was shown with approved parking on an approved site plan.

Mr. Icenhour asked if this was not required to be listed as a condition as it was on an approved site plan.

Ms. Cook stated when the applicant built the parking, the BMP would need to be installed.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. McGlennon asked Ms. Cook to read the proposed language of the additional condition regarding the crossover.

Ms. Cook read the possible language, "All entrances to the parcel shall be right-in, right-out only, and shall not be configured to accommodate either left turn or straight through movements."

Mr. McGlennon asked if that was clear that the condition applied to entrances from Richmond Road, rather than the side entrances for which use was being encouraged.

Ms. Cook stated that clarification would be added to the condition.

Mr. Bradshaw stated concern with the County imposing rules that may conflict with VDOT's authority and expertise under this language.

Mr. McGlennon stated he would like the Board to strongly encourage this language.

Mr. Bradshaw stated his concern for the Board taking on VDOT's authority by imposing rules that may conflict with VDOT's design standards for median cuts. Mr. Bradshaw stated he would encourage the shared entrance, but he felt the language imposed upon VDOT's authority on median cuts.

Mr. McGlennon stated he would like language that would strongly encourage cooperation between the landowners.

Mr. Bradshaw stated he understood, but he felt it was not the Board's responsibility to encourage the cooperation by undermining VDOT's design standards.

Mr. McGlennon stated the language should not be included.

Mr. Harrison asked to continue the emphasis on the interconnectivity.

Mr. Harrison made a motion to approve the resolution.

On a roll call vote the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

RESOLUTION

CASE NO. SUP-20-06. WYTHE-WILL COMMERCIAL EXPANSION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. William LaVancher has applied for an SUP to allow 25,298 square feet of skateboard park ("Skatepark"); 16,828 square feet of office; 69,278 square feet of mini-storage; and 3,590 square feet of retail; and

WHEREAS, the building and uses are shown on the plan prepared by LandTech Resources, Inc., dated June 1, 2006, and entitled "Anti-Gravity Skateboard Park Expansion;" and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and B-1, General Business, and can be further identified as Parcel No. (1-35A), on James City County Real Estate Tax Map No. (24-3); and

WHEREAS, the Planning Commission, following its Public Hearing on July 10, 2006, voted 6-0 to approve this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-20-06 as described herein, with the following conditions:

1. This SUP shall be valid for mini-storage, office, Skatepark and retail uses as shown on the Master Plan entitled "Anti-Gravity Skateboard Park Expansion" prepared by LandTech Resources, Inc. and dated June 1, 2006. Development of the site shall be generally in accordance with the above-referenced master plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. The existing detention pond (YC-014) shall be upgraded to meet the James City County guidelines for design and construction of stormwater management BMPs, as determined by the Environmental Director, including resizing of the dewatering orifice to provide the required 24-hour attenuation of the one-year, 24-hour runoff volume. Such upgrade shall either be completed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark.
3. A right-turn taper shall be installed on eastbound Richmond Road into the western entrance to the property. The right-turn taper shall be designed and constructed in accordance with VDOT standards, and shall be completed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark.
4. Owner shall reserve the areas shown on the Master Plan as "Possible Future Connections to Adjacent Parcel" for a possible future road connection to the adjacent parcels to the north [Tax Map (24-3)(1-34)] and to the south [Tax Map (24-3)(1-35)] of the property. Such connections shall be shown on all development plans associated with the property and shall remain free of structures. Prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark, Owner shall either construct their portion of the road connection to [Tax Map (24-3)(1-35)] or, if an agreement on connection cannot be reached, shall furnish a letter which describes all efforts made to reach an agreement with Owners of such adjacent parcel to the Planning Director.
5. All existing signage shall be brought into conformance, with Article II, Division 3, of the Zoning Ordinance prior to any new sign permits being issued for the property.
6. Existing dumpster pads and heating, cooling, and electrical equipment shall be screened by fencing and landscaping as shown on a plan approved by the Planning Director prior to issuance of a Certificate of Occupancy for the 10,500-square-foot portion of the Skatepark. Such improvements must be completed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark. All future dumpster pads and heating, cooling, and electrical equipment shall also be screened by fencing and

landscaping as shown on a plan approved by the Planning Director prior to any final site plan approvals.

7. Landscaping shall be installed in the northern corner of the property which complies with requirements for Community Character Corridors found in Section 24-96 of the Zoning Ordinance. This requirement shall only apply to the northern corner of the property where there is enough room to have a 50-foot-wide landscape area. In addition, landscaping shall be installed to screen the front parking lot from Route 60. Such landscaping shall consist, at a minimum, of a row of three-foot-high shrubs and either ornamental or shade trees along the back of the fence in the middle island. A landscape plan shall be submitted to the Planning Division and approved by the Planning Director, and all landscaping shall be installed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark.
8. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mr. Bradshaw noted the property owner made an arrangement with the County for the removal of a billboard and stated his appreciation for the initiative of the property owner to preserve the community character corridor and encouraged other property owners who would like to remove billboards to work with the County.

2. Lease of 240 Square Feet of James City County Property to Cingular Wireless, LLC

Ms. Jenny Lyttle, Assistant County Attorney, stated the County Attorney's Office has reviewed the proposed lease and Cingular Wireless will pay \$25,000 initially, with a three percent increase after that annually. Ms. Lyttle stated the resolution would authorize the County Administrator to execute the lease.

Mr. McGlennon opened the Public Hearing.

As no one else wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. Harrison made a motion to approve the resolution.

On a roll call vote the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

RESOLUTION

LEASE OF 240 SQUARE FEET OF JAMES CITY COUNTY PROPERTY TO

CINGULAR WIRELESS, LLC

WHEREAS, James City County owns a 380-foot tower ("Tower") located on James City County Tax Map Parcel No. 1240100062A and more commonly known as 129 Industrial Boulevard, Toano, Virginia; and

WHEREAS, Cingular Wireless, LLC wishes to lease 240 square feet on the Tower; and

WHEREAS, after a public hearing the Board of Supervisors is of the opinion that the County should lease a portion of the Tower to Cingular Wireless, LLC on the terms and conditions contained in the lease agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the lease agreement between James City County and Cingular Wireless, LLC for 240 square feet of Tower space and such other memoranda, agreements, or other documents as may be necessary to effectuate the lease.

3. Philanthropic Research Inc. (GuideStar) Exemption from County Real and Personal Property Taxes

Mr. John McDonald, Financial and Management Services (FMS) Manager, stated Philanthropic Research, Inc. (GuideStar) has applied for business personal property tax exemption, which can be granted by the Board at a public hearing for nonprofit agencies which meet certain criteria. Mr. McDonald stated the Board has discretion beyond those criteria. Mr. McDonald stated GuideStar was a reputable, successful organization that provides a needed service. Staff recommended denial of the exemption due to two criteria, including that the upper-level staff should be paid a reasonable salary and that services provided should be for the general good of the public, and the public in this circumstance should be the people in James City County. Staff stated this organization serves the general good, equally nationwide, with no services specific for James City County. Staff recommendation was based on assumptions of what compensation would be considered reasonable and what would be considered public good.

Mr. Bradshaw asked for illustrations where the Board had granted tax exemptions to show the distinction.

Mr. McDonald mentioned several tax exemptions including the Hospice House, a program in James City County for the terminally ill; First Colony recreation area, Windsor Forest recreation area, and Indigo Park Recreation and Community Associations; and also mentioned that the Board would later be considering the Court Appointed Special Advocate Program, Inc. (CASA).

Mr. Bradshaw stated because the property was not used for community purpose, the Board denied exemption.

Mr. McDonald stated this was correct, and the recommendation for denial of the beach and marina parcel at First Colony exemption was due to the use of property for homeowners association members only.

Mr. McGlennon opened the Public Hearing.

1. Mr. Bob Ottenhoff, 4801 Courthouse, President of GuideStar, stated his organization provides information about nonprofit organizations to the public to educate donors. Mr. Ottenhoff gave an overview on national services provided by his company and stated there were eight registered users in James City County, 1,000 unregistered users in the County, and 2,500 users on the peninsula that use the service at no charge. Mr. Ottenhoff stated there were 338 charities on the peninsula that have used GuideStar to help donors make better decisions. He stated his organization was serving the local community, most of employees live in the County, and his organization was one of the first tenants of New Town.

Mr. Harrison asked the applicant what relationship the applicant organization has had with the United Way.

Mr. Ottenhoff stated his organization verified all nonprofits before contributions were made by United E-Way, the online version of the United Way, and that GuideStar worked very closely with the United Way in a key partnership.

Mr. Harrison mentioned having eight registered users, GuideStar has 1,000 users that surf through information. He then asked what the eight users use the site for.

Mr. Ottenhoff stated if someone would like to view what is registered with the IRS and ask for an email address, typical use is to see if it is legitimate charity; to see if they are meeting the mission of the organization; who is on the board; benchmarking; and a variety of other uses.

As no one else wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. Harrison asked if the County has ever considered a sunset clause for a similar situation.

Mr. Rogers stated we have never put a sunset clause on a tax exemption and explained that this matter was previously handled by the State, which has assigned a standard test for consideration of exemption. Mr. Rogers stated he could see the sunset clause merited if there were a change of circumstances that the Board would review the case at a later date, or to defer the case in order to gather better information. Mr. Rogers explained it was the Board's decision if the organization met the standards for tax exemption, but he did not feel the sunset clause would necessarily fit into that decision.

Mr. Harrison stated there may be a greater service provided to the area than what the applicant currently provided and the same services may be provided with the United Way.

Mr. Rogers stated usually the consideration would be transitory, such as a zoning decision. Mr. Rogers stated in this case, the Board would be deciding if the organization meets the criteria of tax exemption and if further information is required, a deferral motion may be made.

Mr. McGlennon stated the Board would not be closing the door if additional information came forward. Mr. McGlennon stated this was a new program that allowed for reduction of the County's resources and there was no way to know the extent of applications that would come forward. Mr. McGlennon stated he was very reluctant to grant an exemption now, but later the case may be stronger.

Mr. Rogers stated that if there was no action, GuideStar would remain taxable and could come forward again for another Public Hearing.

Mr. Bradshaw asked if the applicant could come forward for reconsideration if the Board denied the exemption.

Mr. Rogers confirmed that the applicant could come forward again.

Mr. Icenhour stated that he would be more comfortable with this application if there was a more direct link to the community and if this is a much greater impact than other nonprofits in the community.

Mr. Icenhour made a motion to deny the application.

Mr. Bradshaw stated he was a user of GuideStar and it was a superb organization, but that does not warrant tax exemption. Mr. Bradshaw explained the exemption was equivalent to an annual contribution of that sum of money for no annual review when the County does the budget. Mr. Bradshaw stated local agencies supported by the County are subject to an analysis of their needs versus our resources and the Board may want to view this application as if it were in competition with other few agencies that the County supports, which must meet a higher standard on an annual competitive basis. Mr. Bradshaw stated he would not grant a perpetual annual benefit to this organization and stated some organizations supported by the Board

and those which receive tax exemptions provided a specific service that the County would have to provide if the organization were not there. He concurred with the motion to deny.

On a roll call vote, the vote was AYE: (0); NAY: Harrison, Icenhour, Bradshaw, McGlennon (4).

4. Colonial Court Appointed Special Advocate Program, Inc. (CASA) Exemption from County Real and Personal Property Taxes.

Mr. John McDonald, FMS Manager, stated there was a second application for tax exemption from Colonial Court Appointed Special Advocate Program, Inc. (CASA), which primarily exempts real property, including commercial office space located at 1311 Jamestown Road, but any business personal property would be included in the exemption. Mr. McDonald stated that in the event of a child abuse case, a CASA volunteer represents the claims of the child in Williamsburg-James City County Court. Colonial CASA is the organization that trains volunteers to represent the child in court. Mr. McDonald stated the normal length of time a child is in court system is 12-18 months. Mr. McDonald stated in this case the criteria set forth in the State Code were met and staff recommended approval.

Mr. McGlennon opened the Public Hearing.

1. Mr. Dick Estes, 110 Walton Heath, Colonial CASA Board President, introduced Donna Dittman Hale, Interim Executive Director, and gave an overview of the CASA program. Mr. Estes explained that the exemption was primarily for the office space purchased a year and a half ago. Mr. Estes stated through community involvement, the organization was on the verge of paying off its mortgage through efficient use of funds, stated Colonial CASA performed a critical function to the community, and stated the funds saved from the property exemption would go back into the program.

2. Ms. Donna Dittman Hale, 99 Castle Lane, Interim Executive Director of CASA, gave a brief presentation on the services provided by CASA. Ms. Dittman Hale stated there were 930 CASA programs nationally, and Colonial CASA supported 45 volunteers and 163 children and families in 2006 within the Juvenile and Domestic Relations Court system. Ms. Dittman Hale continued that CASA volunteers are community members that receive training, have background checks, and are sworn in by the court. She explained the court appointed a CASA advocate to investigate and report information on child abuse cases and the advocate solely represented the child and worked closely with any professional and volunteer services involved in the case. Ms. Dittman Hale stated advocates help 5.5 million children annually and State law only allows three children at a time per advocate to prevent the advocate from being overwhelmed and maintain the most beneficial situation for the children. Ms. Dittman Hale stated Colonial CASA has saved over \$350,000 for the court system and has operated on community funding, with 44 percent of funding received from the Federal and State government, and 16 percent of funding from James City County and the City of Williamsburg, down from 26 percent. Ms. Dittman Hale stated the rest of the money came from private, contributions, fund-raising, and other events. She stated that nearly \$2,200 a year would be saved with a tax exemption to support operating budget, salaries, and operating expenses for professional staff and volunteers that work very hard for very little.

Mr. McGlennon stated there was a \$1,200 tax exemption based on current assets.

Ms. Dittman Hale stated there was a miscalculation and the correct figure was \$1,200.

As no one else wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. Harrison stated this is a great litmus test due to the fact that this was a national organization and disclosed his sister was a director of CASA in Pennsylvania, but he did not feel it would interfere with his ability to vote without bias as it was not a local organization. Mr. Harrison stated this case was different from the previous one because the return investment was directly felt in the County, and the reduction in funding was made up with investments by those in the community.

Mr. Harrison made a motion to approve the application for exemption.

Mr. McGlennon stated his experience with the organization was very good, wherein the organization provided a good service to the community, and managed a small budget well.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

5. Budget Amendment – FY 2007 Capital Budget

Mr. John McDonald, FMS Manager, stated earlier the Virginia Public Service Authority (VPSA) refund was approved and in the County's case those funds would be used for school construction purposes. Mr. McDonald explained that this budget amendment adjusts the budget for the Matoaka Elementary School construction and as the amendment exceeds \$500,000, it must be adopted by public hearing.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. Icenhour made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

RESOLUTION

BUDGET AMENDMENT - FY 2007 CAPITAL BUDGET

WHEREAS, the Board of Supervisors of James City County has been notified that the Virginia Public School Authority (VPSA) has refinanced bonds issued in 1991 and 1993 and that the refinancing has produced savings in the amount of \$516,817; and

WHEREAS, one of the requirements of VPSA is that these savings shall be invested in School capital projects within six months of the receipt of the funds; and

WHEREAS, State Code requires that any budget amendment exceeding \$500,000 be advertised and adopted only after a public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the following amendment to the budget for the year ending June 30, 2007, and appropriates these funds as follows:

Revenue:

Capital Budget	<u>\$516,817</u>
(Proceeds from the VPSA Refinancing)	

Expenditures:

Matoaka Elementary School	\$216,817
School Site Acquisition	<u>300,000</u>
	<u>\$516,817</u>

6. A resolution to transfer 1.061+ acres of right-of-way, 0.117+ acres of permanent easement and

0.707+ acres of temporary easement to the Virginia Department of Transportation and 0.215+ acres of easement to Verizon Virginia, Inc.

Mr. John Carnifax, Parks and Recreation, stated the easement and right-of-way would be at Chickahominy Riverfront Park and consisted of less than two acres total for the easements and just over an acre for right-of-way for the new bridge. Mr. Carnifax stated this was consistent with Parks and Recreation and Planning.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. Harrison made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

RESOLUTION

CONVEYANCE OF RIGHT-OF-WAY AND EASEMENTS TO THE **VIRGINIA DEPARTMENT OF TRANSPORTATION AND** **EASEMENT TO VERIZON VIRGINIA, INC., FOR \$38,700**

WHEREAS, James City County owns 140± acres of land commonly known as 1350 John Tyler Highway, designated as Tax Parcel No. 34-30100002, and operated as the Chickahominy Riverfront Park; and

WHEREAS, the Virginia Department of Transportation (“VDOT”), requires as part of the construction of the new Judith Dresser Memorial Bridge the following conveyances:

To VDOT:

- 1.061± acres of right-of-way;
- 0.117± acres of permanent easement; and
- 0.215± acres of temporary easement.

To Verizon Virginia, Inc.:

- 0.215± acres of permanent easement; and

WHEREAS, VDOT is willing to pay the County \$38,700 for the conveyances; and

WHEREAS, after holding a public hearing, the Board of Supervisors agree to convey the right-of-way and easements needed for the new Judith Dresser Memorial Bridge for \$38,700.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the right-of-way agreements, deeds, and other documents necessary to convey the above-referenced property to the Virginia Department of Transportation and Verizon Virginia, Inc.

7. An ordinance to amend and reordain Chapter 15, Offenses – Miscellaneous, of the Code of James City County by adding Section 15-25.1, Designation of Police to Enforce Trespass Violations, to

permit property owners to grant the James City County Police Department and its officers a limited power of attorney for the purpose of enforcing trespassing laws on the property.

Mr. Adam Kinsman, Assistant County Attorney, stated this was a County Code change to allow property owners to designate the Police Department and its officers as the lawful guardian of a property. Mr. Kinsman stated under the current system, the property owner would need to see and identify a person loitering, ask the person to leave the premises, call the Police Department, have the person arrested for trespassing, and then attend court. Mr. Kinsman explained that the ordinance amendment allows a property owner to voluntarily designate the Police Department to be responsible for property, which allows the Police Department to identify a person as loitering, then charge the person with trespassing, and testify in court. Mr. Kinsman stated this was a limited power of attorney placed in the Police Department by the property owner, and both parties would be able to eliminate the power of attorney at any time.

Mr. Harrison asked the length of time the power of attorney would last and whether the time frame would be disclosed initially.

Mr. Kinsman stated with a limited power of attorney, you can designate a time period, or the power of attorney could last forever as long as everyone agreed to those terms and neither party revoked the limited power of attorney.

Mr. Harrison stated retail property owners would benefit from this and asked what methods would be used to advertise this service.

Mr. Kinsman stated this would be left to the Police Department, which was treating this as a public relations tool. Mr. Kinsman stated that they may put the details of the service on the County Web site.

Mr. Wanner, County Administrator, stated the Community Service Division of the Police Department and the Greater Williamsburg Area Chamber and Tourism Alliance would be working together to make this a successful partnership between large property owners and the Police Department.

Mr. Bradshaw stated the change in State law was recent and asked what the results have been in other jurisdictions.

Mr. Kinsman stated he contacted the attorney in the City of Arlington and has heard the program was successful.

Mr. Bradshaw stated the actual experience would determine success and asked that the Attorney's Office or Police Department report back in a year's time.

Mr. McGlennon asked about the voluntary nature of the program and asked if the Police Department could elect not to participate.

Mr. Kinsman stated the police can refuse the designation, as the program was completely voluntary for both parties.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. Bradshaw made a motion to approve the ordinance amendment.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

8. A resolution to consider a lease between James City County and Williamsburg Area Medical

Assistance Corporation ("WAMAC") for the Olde Towne Medical Center to use a portion of the Human Services Building at 5249 Olde Towne Road, Williamsburg, Virginia 23188

Ms. Jennifer Lyttle, Assistant County Attorney, stated the lease between Olde Towne Medical Center and Williamsburg Area Medical Assistance Corporation and the James City County Human Services Building needed to be renewed, the lease would be \$65,797 for first year, to increase annually at four percent. Ms. Lyttle stated the resolution authorized the County Administrator to execute the lease.

Mr. Icenhour asked how long the lease would be.

Ms. Lyttle stated the length of the lease was five years.

Mr. Rogers stated Olde Towne Medical Center started in 1994.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak on this matter, Mr. McGlennon closed the Public Hearing.

Mr. Harrison made a motion to adopt the resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

RESOLUTION

OLDE TOWNE MEDICAL CENTER LEASE

WHEREAS, the Olde Towne Medical Center is providing primary and preventative health care to residents of James City County; and

WHEREAS, the lease of a portion of the Human Services Building will assist the Olde Towne Medical Center in providing medical care to James City County residents.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized and directed to execute the lease between James City County and the Williamsburg Area Medical Assistance Corporation for the operation of the Olde Towne Medical Center.

H. BOARD CONSIDERATIONS

1. Matoaka Elementary School

Mr. John McDonald, FMS Manager, stated there was a special meeting of Williamsburg-James City County School Board where construction was authorized for Matoaka Elementary School, conditionally based on the action of the Board of Supervisors. Mr. McDonald stated staff recommended approval of the attached resolution and stated the Williamsburg City Council would consider the matter at its upcoming meeting. Mr. McDonald stated the necessity to come before the Board again to fund the additional costs of the project and a public hearing would be set for November 12, 2006, to address a budget amendment to increase funds for school construction. Mr. McDonald stated he would answer any questions regarding the budget amendment but would defer any questions brought forward by Mr. Howell earlier to the County Attorney and added that he knew construction had already begun on the site.

Mr. McGlennon asked for clarification that the County will move ahead with the school construction.

Mr. Rogers stated in the event the issues cannot be resolved before the November 8 litigation, there would be a hearing. Mr. Rogers stated all the property owners would be brought together with the County Attorney's Office in order to resolve the pending issues regarding the original condemnation. Mr. Rogers stated that Mr. Howell's comments were true in that there was still a piece of property along Brick Bat Road that still needed to be acquired for a turn lane, but the intention was to include this parcel with the original condemnation. Mr. Rogers stated if this was not possible, the Board may be addressed again for an additional condemnation for this slice of property along Brick Bat Road.

Mr. Harrison asked if the effort to collapse the additional condemnation into the original one was a negotiation on cost.

Mr. Rogers stated collapsing the second property acquisition into the first one made sense for both parties, but there were other issues on the table, including the property owners' access to the property and the County's use of the property. Mr. Rogers stated if the County and the property owners could resolve these issues, there was more sense in having one case go forward if it goes forward on the question of valuation. Mr. Rogers stated if staff did not believe this would happen, a second condemnation matter would have been brought before the Board; however, he felt that was premature.

Mr. Harrison made a motion to adopt the resolution

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

RESOLUTION

MATOAKA ELEMENTARY SCHOOL

WHEREAS, the Board of Supervisors of James City County has previously budgeted funds for the construction of Matoaka Elementary School; and

WHEREAS, despite rebidding the contract, the construction contract for Matoaka Elementary School exceeded budget estimates by \$4 million; and

WHEREAS, the Williamsburg-James City County School Board seeks additional funds to award the contract and fund related project costs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the contract award for the construction of Matoaka Elementary School and agrees to hold a public hearing on September 12, 2006, on an amendment to the previously adopted Capital Budget for the year ending June 30, 2007.

2. Acquisition of Conservation Easements - Tax Parcel No. 1220100008

Ms. Tammy Rosario, Senior Planner, stated Mr. Bert E. Geddy, Jr., has agreed upon the terms and value of conservation easements on his property located at 3200 Rochambeau Drive near Anderson's Corner. Also known as the Whitehall Tavern property, the parcel can be further identified as Tax Parcel No. 220100008. The property fronts both Rochambeau Drive and Old Stage Road and has significant scenic and historic value to the community. Conservation of this parcel as a farm or rural land, as opposed to intense residential development, will have significant scenic benefits to the Anderson's Corner area. Preservation of the rural landscape immediately surrounding the Whitehall Tavern will contribute to the historic setting most appropriate for the Tavern. This acquisition, in combination with the Colonial Williamsburg parcel and appropriate design of nearby developments, will help maintain the character of the Anderson's Corner area.

Two conservation easements would protect 31.64 acres of the 41.42-acre parent parcel. The first conservation easement, labeled “James City County Conservation Easement,” is located on 10.967 acres at the northeast corner of the property. Its proposed deed of easement is written in accordance with the Virginia Open-Space Land Act and generally prohibits the construction of residential and commercial uses, signs, earth removal, and accumulation of waste material. The second conservation easement, labeled “FRPP Easement,” is located on 20.673 acres and includes the existing historic residence known as Whitehall Tavern and its surrounding buildings. Its proposed deed of easement is written in accordance with the requirements of the Virginia Open-Space Land Act, the United States Department of Agriculture’s Farm and Ranch Lands Protection Program (FRPP), and the Virginia Department of Historic Resources. In addition to the general conditions noted above, this deed restricts the location of new buildings and roads, adds historic preservation protections for the Whitehall Tavern and certain surrounding historic buildings, and further limits impervious area. In consideration of the property’s future use as a farm, it makes allowances for an apartment-type dwelling contained within a agricultural structure and for certain rural enterprises such as a bed and breakfast or commercial horse-riding facility. James City County will administer both easements with the expectation that the Virginia Department of Historic Resources will assist or directly administer the historic preservation provisions. The deeds of easement will be subject to approval by the County Attorney.

Mr. Geddy intends to subdivide three home sites for himself and his children with the remaining 9.78 acres of the 41.42-acre parent parcel. As part of the terms of the sale, he has agreed to deed restrictions on the lots which will further protect the scenic values of the Whitehall Tavern property. They include right-of-first refusal on the lots, variable-width scenic easements, and County approval of the house locations.

The Board of Supervisors previously approved the financial terms of the sale based upon an appraisal of the easement value provided by Simerlein Appraisals, Ltd. The agreed price was \$1,090,000 minus the value of the land in lots and a five-year phased payment schedule. Based upon these terms, the price of the conservation easements will be \$760,072. Because a portion of the property is subject to an FRPP easement, James City County will be eligible to receive \$250,000 towards this purchase.

Staff recommended approval of the attached resolution accepting the offer by Mr. Bert E. Geddy, Jr., to sell conservation easements for the appraised value of \$760,072 and authorizing the County Administrator to execute all documents necessary for completing the acquisition.

Mr. Bradshaw made a motion to adopt the resolution.

Mr. Bradshaw commented on a historical map that shows the significance of this property and the Geddy family in the County. Mr. Bradshaw stated this case shows the flexibility of the County as this property is inside the PSA, was not designed for the PDR program, yet staff and property owner were able to work together to create a conservation easement and preservation of the historical structure.

Mr. McGlennon highlighted the contribution of the Federal government for the purchase of this property.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

RESOLUTION

ACQUISITION OF CONSERVATION EASEMENT – TAX PARCEL NO. 1220100008

WHEREAS, Bertrand E. Geddy, Jr., owns a certain parcel located at 3200 Rochambeau Drive in James City County, designated as Tax Parcel No. 1220100008 (the “Property”); and

WHEREAS, Bertrand E. Geddy, Jr., has offered to sell the County two conservation easements (the “Easements”) on the Property which will protect 31.64 acres of the Property; and

WHEREAS, the County’s acquisition of the Easements will preserve the rural landscape of the Property, the historical Whitehall Tavern located on the Property, as well as help maintain the character of Anderson’s Corner; and

WHEREAS, the total purchase price of the Easements shall be \$760,072; and

WHEREAS, the Board of Supervisors is of the opinion the County should acquire the Easements to preserve the rural, scenic and historical values of the Property while maintaining the character of Anderson’s Corner.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to acquire the Easements on the Property and to execute any and all documents as may be necessary to acquire the Easements.

Mr. Wanner recognized Mr. Geddy with a round of applause.

Mr. Geddy thanked the Board and the County for the PDR program and commented that this property was likely to be the oldest or one of oldest farms continuously operated by the same family.

Mr. McGlennon thanked Mr. Geddy for his participation in the program.

Mr. Geddy shared with the Board the importance of the Whitehall site for gathering intelligence during the Civil War. Mr. Geddy also stated that recently a tree had fallen that was planted over 150 years ago and missed hitting the house by ten feet.

Mr. Bradshaw stated the map he referenced hung in the Williamsburg library and his office.

I. PUBLIC COMMENT

1. Mr. Andy Curtis, representing Curtis Contracting, expressed appreciation for confidence in award of Warhill contract. Mr. Curtis thanked the Board for outstanding staff assigned to projects at Warhill and stated it had been an honor and a pleasure to work with the County staff.

Mr. McGlennon thanked Mr. Curtis for his comments.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner commented on an article in *Virginia Town and City* entitled “Preserving History,” which highlighted the County’s efforts to preserve the Norge Depot. Mr. Wanner mentioned an additional article in the C&O Historical Society magazine which covered the Norge Depot project. Mr. Wanner thanked the

Board and citizens for the support and patience during this project and commented on an additional restoration grant received for improvements to the exterior of the building.

Mr. Wanner recommended the Board have a JCSA meeting, and then adjourn to 7 p.m. on September 12, 2006, as this was the only meeting in August.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw stated he participated in the Toano-Norge Times watermelon seed spitting contest.

Mr. McGlennon stated there was an article in the same issue of *Virginia Town and City* as the Norge Depot article which focused on fuel conservation in the County. Mr. McGlennon stated his appreciation for the Satellite Office staff, which has been conducting DMV Select operations for about a year. Mr. McGlennon stated he received great service and was able to do County and DMV business in the same location.

L. CLOSED SESSION

Mr. Wanner stated the Board held a Closed Session this afternoon for appointment to the Williamsburg Regional Library Board of Trustees and the Colonial Services Board (CSB). Mr. Wanner stated the Board did not take any action on CSB.

M. ADJOURNMENT

Mr. Harrison made a motion to adjourn to 7 p.m. on September 12, 2006.

On a roll call vote, the vote was AYE: Harrison, Icenhour, Bradshaw, McGlennon (4); NAY: (0).

At 8:35 p.m., Mr. McGlennon adjourned the Board to 7 p.m. on September 12, 2006.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: September 12, 2006
TO: The Board of Supervisors
FROM: Catherine E. Davis, Environmental Education Coordinator
SUBJECT: Recognition - Environmental Single-Family Award

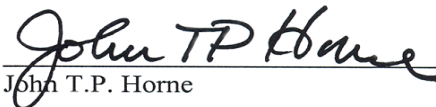
The 2006 Environmental Recognition Award Program has completed its second-quarter acceptance term of receiving applications for the Environmental Single-Family Award. The purpose of the award is to recognize the efforts of a builder whose building practices minimize environmental impact in James City County.

Affordable Homes, LLC-I, is the second-quarter award recipient for taking the initiative to control erosion, reduce run-off from its site, and go above and beyond normal erosion and sediment control measures. A metal plaque will be posted at the selected site of 8873 Fenwick Hills Parkway, Lot 82, in Fenwick Hills.



Beth Davis

CONCUR:



John T.P. Horne

BD/gs
affordablehomes.mem

Attachment

RESOLUTION

RECOGNITION - ENVIRONMENTAL SINGLE-FAMILY AWARD

WHEREAS, Affordable Homes, LLC-I, is the 2006 Environmental Recognition Award Program second quarter Environmental Single-Family Award recipient at the selected site of 8873 Fenwick Hills Parkway, Lot 82, in Fenwick Hills; and

WHEREAS, Affordable Homes, LLC-I, has demonstrated building practices to minimize environmental impact in James City County; and

WHEREAS, Affordable Homes, LLC-I, has taken the initiative to control erosion, reduce run-off from its site, and go above and beyond normal erosion and sediment control measures.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize the outstanding dedication of Affordable Homes, LLC-I, for environmental protection in James City County.

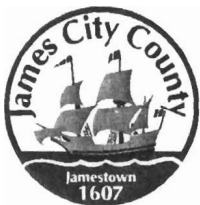
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

affordablehomes.res



DEVELOPMENT MANAGEMENT

101-E MOUNTS BAY ROAD, P.O. BOX 8784, WILLIAMSBURG, VIRGINIA 23187-8784
(757) 253-6671 Fax: (757) 253-6850 E-MAIL: devtman@james-city.va.us

CODE COMPLIANCE
(757) 253-6626
codecomp@james-city.va.us

ENVIRONMENTAL DIVISION
(757) 253-6670
environ@james-city.va.us

PLANNING
(757) 253-6685
planning@james-city.va.us

COUNTY ENGINEER
(757) 253-6678
INTEGRATED PEST MANAGEMENT
(757) 253-2620

August 22, 2006



Mr. Rick Parker
Affordable Homes, LLC-I
P.O. Box Drawer 2130
Virginia Beach, VA 23450

RE: 2006 Environmental Recognition Award Program Second-Quarter Environmental Single-Family Award

Dear Mr. Parker:

Congratulations! James City County's Environmental Division is pleased to announce that you are the second-quarter recipient of the 2006 Environmental Recognition Award Program Environmental Single-Family Award.

You, or your representative, are invited to attend a recognition presentation at the Board of Supervisors meeting scheduled for Tuesday, September 12, 2006, at 7:00 p.m., at the County Government Center, 101 Mounts Bay Road, Building F Board Room in James City County, Virginia.

Please RSVP by Friday, September 8, 2006, to the Environmental Division at (757) 253-6670, or via E-Mail envdiv@james-city.va.us.

Sincerely,

Catherine E. Davis
Environmental Education Coordinator

CED/gs
affordablehomes.ltr

cc: James City County Environmental Division

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director

SUBJECT: Dedication of Streets in Powhatan Secondary of Williamsburg, Phases 7A-B

Attached is a resolution requesting acceptance of certain streets in Powhatan Secondary of Williamsburg, Phases 7A-B into the State Secondary Highway System. These streets have been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.


Darryl E. Cook

DEC/gs
Powhat7A_B.mem

Attachments

RESOLUTION

DEDICATION OF STREETS IN POWHATAN SECONDARY OF WILLIAMSBURG,

PHASES 7A-B

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

Powhat7AB.res

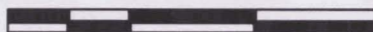


DEDICATION OF STREETS IN POWHATAN SECONDARY OF WILLIAMSBURG, PHASES 7A-B



Streets Being
Dedicated

200 0 200 400 Feet



In the County of James City

By resolution of the governing body adopted September 12, 2006

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee Signed (County Official): _____

Form AM-4.3 (11/28/2005)
Asset Management Division

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Powhatan Secondary Of Williamsburg, 7A - B

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, Secondary System, New subdivision street
Pursuant to Code of Virginia §33.1-229

Route Number and/or Street Name

Powhatan Secondary, State Route Number 1480

Description: **From:** Route 613, News Road
To: Route 1580, Colonies Crossing
A distance of: 0.12 miles.

Right of Way Record: Filed with the Land Records Office on 10/1/2003, Document # 030029209, with a width of 50'.

Powhatan Secondary, State Route Number 1480

Description: **From:** Route 1580, Colonies Crossing
To: Route 1581, Styler's Mill Crossing
A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 10/1/2003, Document # 030029209, with a width of 40'.

Powhatan Secondary, State Route Number 1480

Description: **From:** Route 1581, Styler's Mill Crossing
To: Route 1581, Styler's Mill Crossing
A distance of: 0.19 miles.

Right of Way Record: Filed with the Land Records Office on 10/1/2003, Document # 030029209, with a width of 40'.

Powhatan Secondary, State Route Number 1480

Description: **From:** Route 1581, Styler's Mill Crossing
To: Route 1580, Colonies Crossing
A distance of: 0.08 miles.

Right of Way Record: Filed with the Land Records Office on 10/1/2003, Document # 030029209, with a width of 40'.

Colonies Crossing, State Route Number 1580

Description: **From:** Route 1480, Powhatan Secondary
To: End of channeled median
A distance of: 0.03 miles.

Right of Way Record: Filed with the Land Records Office on 10/1/2003, Document # 030029209, with a width of 57'.

Report of Changes in the Secondary System of State Highways

Colonies Crossing, State Route Number 1580

Description: **From:** End of channeled median
To: Route 1480, Powhatan Secondary
A distance of: 0.07 miles.

Right of Way Record: Filed with the Land Records Office on 10/1/2003, Document # 030029209, with a width of 50'.

Styler's Mill Crossing, State Route Number 1581

Description: **From:** Route 1480, Powhatan Secondary
To: Route 1480, Powhatan Secondary
A distance of: 0.12 miles.

Right of Way Record: Filed with the Land Records Office on 3/10/2003, Document # 030007285, with a width of 40'.

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director

SUBJECT: Dedication of a Street Known as Louise Lane South Extension

Attached is a resolution requesting acceptance of a certain street known as Louise Lane South Extension into the State Secondary Highway System. This street has been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.



Darryl E. Cook

DEC/gs
LouiseExt.mem

Attachments

RESOLUTION

DEDICATION OF STREET KNOWN AS LOUISE LANE SOUTH EXTENSION

WHEREAS, the street described on the attached Additions Form AM-4-3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the street described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

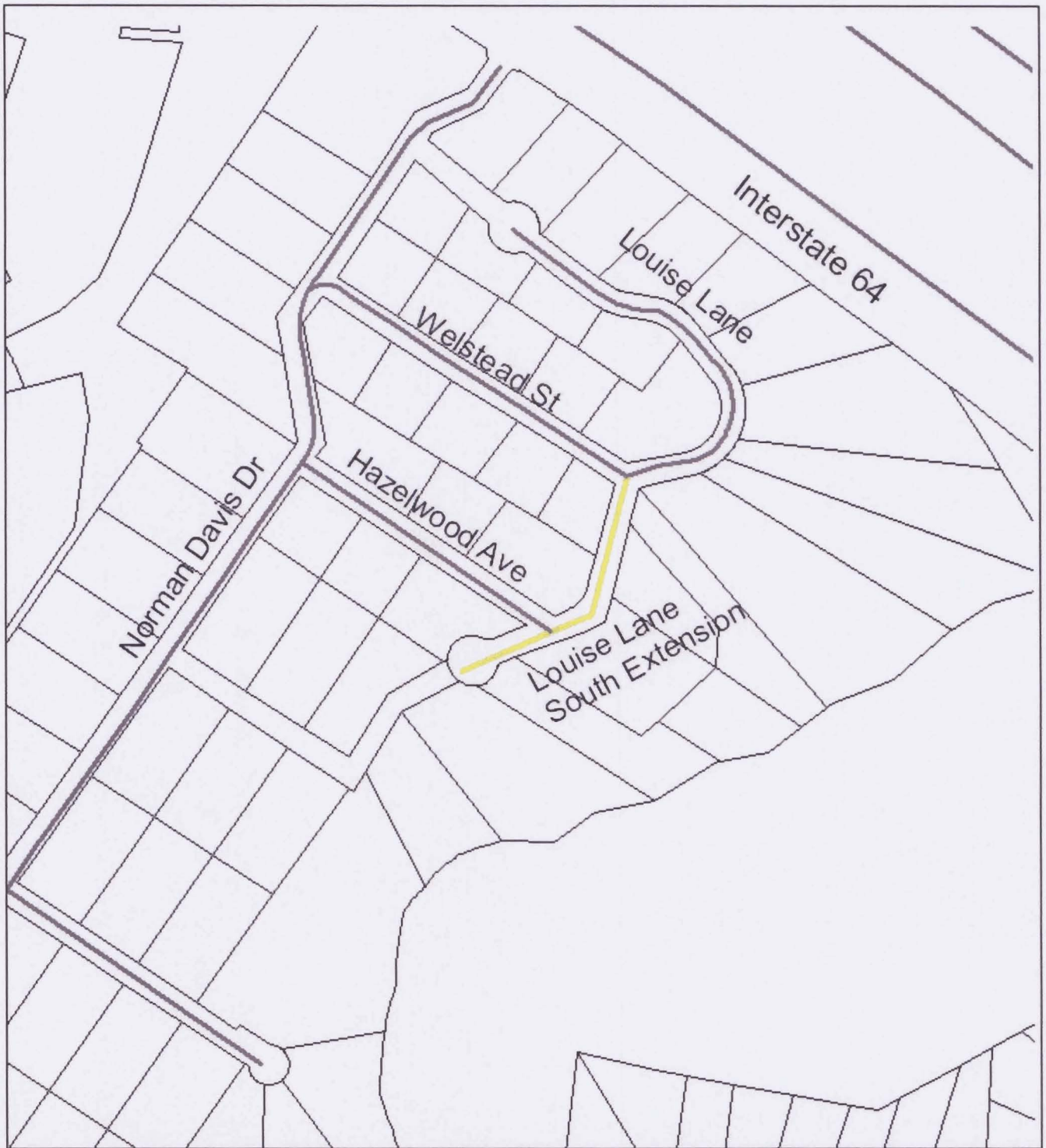
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

LouiseExt.res



DEDICATION OF STREET KNOWN AS LOUISE LANE SOUTH EXTENSION



Street Being
Dedicated



In the County of James City

By resolution of the governing body adopted September 12, 2006

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee Signed (County Official): _____

Form AM-4.3 (11/28/2005)
Asset Management Division

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Louise Lane South Extension

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, Secondary System, New subdivision street
Pursuant to Code of Virginia §33.1-229

Route Number and/or Street Name

Louise Lane, State Route Number 1638

Description: **From:** Route 1624, Welstead Lane
To: End of cul de sac
A distance of: 0.10 miles.

Right of Way Record: Filed with the Land Records Office on 12/7/1962, Pb 20, Pg 47, and on August 5, 2004 Document # 040020099, with a width of 50'.

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director

SUBJECT: Erosion and Sediment Control Ordinance Violation - Civil Charge – John Grier Construction

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Erosion and Sediment Control Ordinance. The case involves the disturbance and grading of land, and the removal of understory trees and shrubs without a land disturbing permit or building permit. In accordance with provisions of the Ordinance, the County issued a notice of violation and requested that work stop. The owner, John Grier Construction, has abated the violation. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$2,000 as offered by the responsible party. Rather than go to court, John Grier Construction, has agreed to a civil charge of \$1,000. Staff believes that a civil charge of \$1,000 is equitable given the nature of the land disturbance and the cooperation exhibited by the owner in resolving the violation, and the fact that the owner had a previous similar violation.

Staff recommends adoption of the attached resolution accepting a civil charge for the erosion and sediment control violation.



Darryl E. Cook

CONCUR:

Leo P. Rogers

DEC/gb
JohnGrierVio.mem

Attachment

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION -

CIVIL CHARGE – JOHN GRIER CONSTRUCTION

WHEREAS, on or about March 20, 2006, John Grier Construction, Owner, violated or caused a violation of the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at 9935 Walnut Creek, Toano, Virginia, designated as Parcel No. (3-14) on James City County Real Estate Tax Map No. (5-2) and hereinafter referred to as (the "Property"); and

WHEREAS, John Grier Construction has abated the violation at the Property; and

WHEREAS, John Grier Construction, has agreed to pay \$1,000 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from John Grier Construction, Owner, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

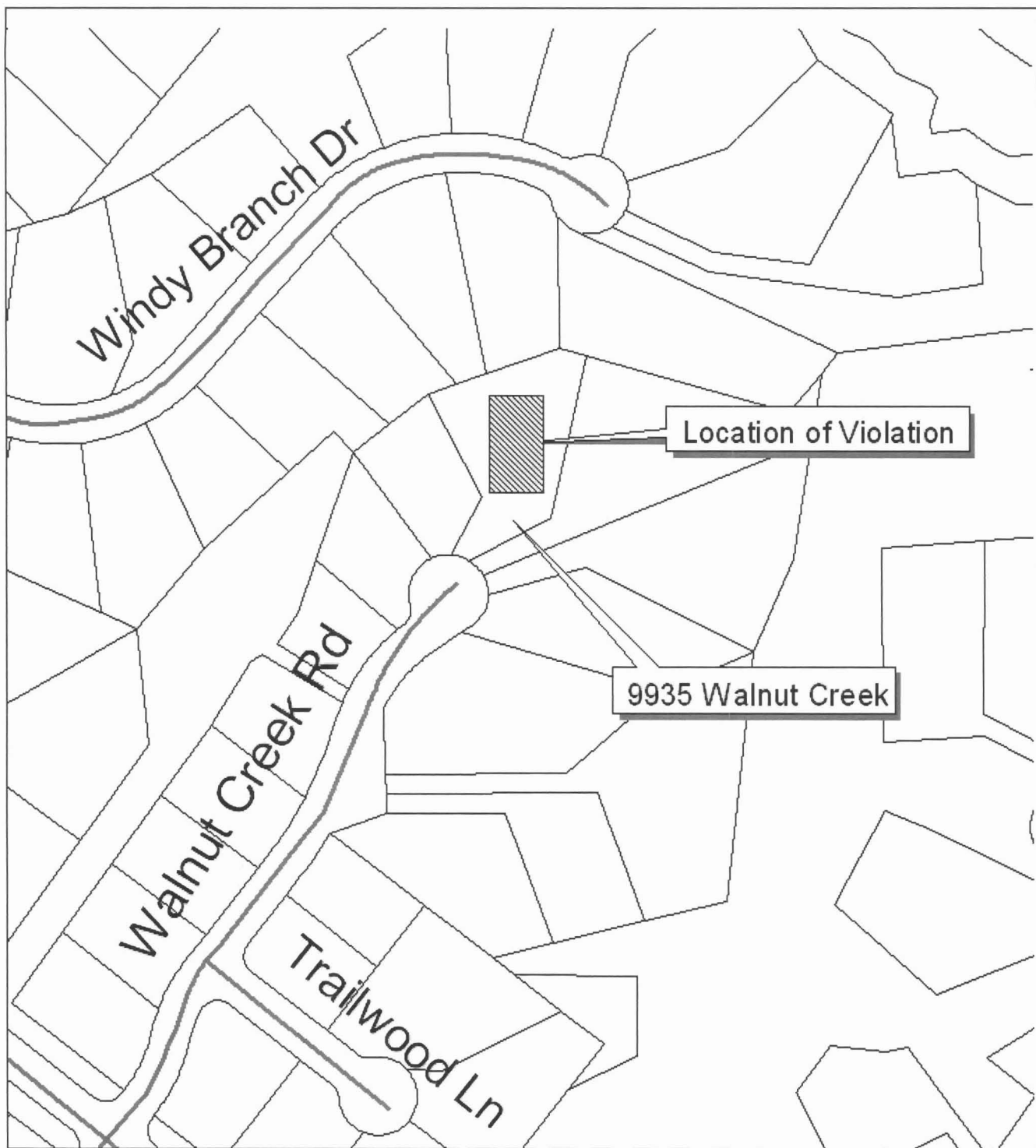
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

JohnGrierVio.res



**EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION -
CIVIL CHARGE - JOHN GRIER CONSTRUCTION, OWNER**

200 0 200 Feet



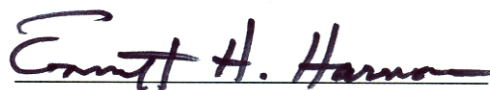
MEMORANDUM

DATE: September 12, 2006
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Authorization of Two Temporary Overhire Positions

The Police Department is requesting that the Board establish two overhire Police Recruit positions through March 1, 2007, in anticipation of the upcoming retirements of two of our veteran officers. One of the officers will retire on December 1, 2006, and the other on March 1, 2007.

Training the replacements for the two retiring officers can take up to six months, including Basic Law Enforcement training at the Police Academy and the on-the-job field training that comes after academy graduation. The next Academy class is scheduled to start on November 6 and will not be completed until March 7, which is after both officers have retired. The training that follows would be complete and the officers from this Academy class would be on the street sometime in April/May. Waiting to hire and send officers to the next Academy session would mean that these officers would not be available until the fall of 2007. Inadequate staffing adversely affects service delivery and places additional stress on employees already working in dangerous and stressful occupations. We have just completed a hiring process and have a number of excellent candidates that we wish to select two from if this request is granted. The anticipated hired date for these two positions would be November 1. There are funds available within the existing Police Department FY 2007 budget to fund these two temporary overhire positions.

Staff recommends adoption of the attached resolution that creates two temporary overhire positions that will expire March 1, 2007.


Emmett H. Harmon

EHH/tlc
2tempvrhire.mem

Attachment

RESOLUTION

AUTHORIZATION OF TWO TEMPORARY OVERHIRE POSITIONS

WHEREAS, two officers have given notice of retirement, one effective December 1, 2006, and another effective March 1, 2007; and

WHEREAS, it takes four months for newly hired non-certified personnel to complete the Basic Law Enforcement Course at the Hampton Roads Criminal Justice Academy (November 6, 2006 – March 7, 2007) and an additional eight weeks to complete field training; and

WHEREAS, insufficient staffing in the Police Department adversely affects service delivery and places additional stress on employees already working in dangerous and stressful occupations; and

WHEREAS, some excellent candidates are available from a recent recruitment; and

WHEREAS, funds are available within the existing Police Department FY 2007 budget for the creation of two temporary overhire positions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby establish two full-time temporary Police Officer I overhire positions that will expire March 1, 2007.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

2tempovrhire.res

M E M O R A N D U M

DATE: September 12, 2006
TO: The Board of Supervisors
FROM: M. Ann Davis, Treasurer
SUBJECT: Destruction of Paid Personal Property and Real Estate Tax Tickets

Attached are two resolutions requesting approval to destroy paid tax tickets from 1993 and 1994.

Staff recommends the Board adopt the attached resolutions.

M. Ann Davis

MAD/gs
tickets1993-94.mem

Attachments

RESOLUTION

DESTRUCTION OF PAID PERSONAL PROPERTY TAX TICKETS

WHEREAS, the Code of Virginia, § 58.1-3129, states that the Treasurer may, with the consent of the governing body, destroy all paid tax tickets at any time after five years from the end of the fiscal year during which taxes represented by such tickets were paid, in accordance with the retention regulations pursuant to the Virginia Public Records Act (§ 42.1-76, et seq.); and

WHEREAS, the tax tickets hereby referred to are paid personal property tax records from 1993 and 1994.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the destruction of the paid personal property tax records from 1993 and 1994.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

tickets1993-94PP.res

RESOLUTION

DESTRUCTION OF PAID REAL ESTATE TAX TICKETS

WHEREAS, the Code of Virginia, § 58.1-3129, states that the Treasurer may, with the consent of the governing body, destroy all paid tax tickets at any time after five years from the end of the fiscal year during which taxes represented by such tickets were paid, in accordance with the retention regulations pursuant to the Virginia Public Records Act (§ 42.1-76, et seq.); and

WHEREAS, the tax tickets hereby referred to are paid real estate tax records from 1993 and 1994.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the destruction of the paid real estate tax records from 1993 and 1994.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

ticket1993-94RE.res

MEMORANDUM

DATE: September 12, 2006
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Award of Contract – Ambulance Purchase – Fire Department

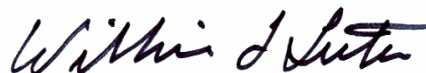
Funds are available in the FY 2007 Capital Improvement Program budget for purchase of a replacement ambulance.

Fire Department and Purchasing staff determined the most efficient procurement method for this purchase was to use a cooperative purchasing contract issued by the City of Newport News to American LaFrance LLC as a result of a competitive sealed Request for Proposals. This cooperative procurement action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy and the Virginia Public Procurement Act.

By participating in the cooperative procurement action, staff believes the County will increase efficiency, reduce administrative expenses, and benefit from an accelerated delivery process. The Fire Department currently uses ambulances delivered from this vendor and has been satisfied with design, construction, delivery schedule, and the field performance of these units.

Staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$185,500 for a 2007 Freightliner M2/MedicMaster Type I Medium-Duty Ambulance unit.

Staff recommends approval of the attached resolution.



William T. Luton

WTL/gb
AwardAmb.mem

Attachment

RESOLUTION

AWARD OF CONTRACT - AMBULANCE PURCHASE - FIRE DEPARTMENT

WHEREAS, funds are available in the FY 2007 Capital Improvements Program budget for purchase of a replacement ambulance; and

WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy and the Virginia Public Procurement Act and the City of Newport News issued a cooperative purchasing contract to American LaFrance, LLC as a result of a competitive sealed Request for Proposals; and

WHEREAS, Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$185,500 with American LaFrance, LLC for a 2007 Freightliner M2/MedicMaster Type I Medium-Duty Ambulance unit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract between James City County and American LaFrance, LLC in the amount of \$185,500.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

AwardAmb.res

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: Tal Luton, Coordinator of Emergency Management

SUBJECT: Declaration of a Local Emergency – Tropical Storm Ernesto

On September 7, 2006, the County's Director of Emergency Management, Sanford B. Wanner, declared a local emergency due to the recovery operations from Tropical Storm Ernesto. On September 1, 2006, Tropical Storm Ernesto approached and moved through James City County. The local effects of the storm brought wind gusts in excess of 45 miles per hour, and over eight inches of rain to the County with resulting small stream and tidal flooding of low-lying areas.

The Director's declaration of a local emergency was necessary to mitigate the resulting wind and water damages and to provide for a coordinated local government response for the public safety of citizens and visitors of James City County. The Code of Virginia requires that the Board confirm the Director's declaration within 14 days of its issuance. A resolution confirming the declaration is attached.

When the conditions have been mitigated, staff will advise the Board and prepare a resolution declaring an end to the local emergency.


William T. Luton

WTL/gs
Ernesto.mem

Attachment

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY – TROPICAL STORM ERNESTO

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the effects of Tropical Storm Ernesto the County faces dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to mitigate the damage, loss, hardship, or suffering threatened or caused thereby; and

WHEREAS, a condition of extreme peril of life and property necessitated the declaration of the existence of an emergency; and

WHEREAS, due to exigent circumstances, the Board of Supervisors was unable to convene to consent to the declaration of a local emergency.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, pursuant to Section 44-146.21 of the Code of Virginia, 1950, as amended, the Declaration of a Local Emergency dated September 7, 2006, by Sanford B. Wanner, Director of Emergency Management for James City County, be, and the same is, confirmed.

BE IT FURTHER RESOLVED that the Director of Emergency Management and the Coordinator of Emergency Management shall exercise those powers, functions, and duties as prescribed by state law and the ordinances, resolutions, and approved plans of James City County in order to mitigate the effects of said emergency.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

Ernesto.res

M E M O R A N D U M

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: John E. McDonald, Manager, Financial and Management Services

SUBJECT: Real Property Tax Rate

On August 25, 2006, the Office of Real Estate Assessments mailed Change-in-Assessment notices to the vast majority of landowners in James City County. The average increase in assessments is 15.4 percent vs. an estimated 15 percent used in creating the FY 2007 Budget. A comparison of the current land book as of July 1, 2006, with the land book a year ago and the assumptions used in the FY 2007 Budget are shown below:

	<u>FY 2006</u>	<u>FY 2007</u>	<u>Increase</u>	<u>FY 07 Budget Assumption</u>
Increased Assessment	\$8,189,928,900	\$9,454,369,100	15.4%	15.0%
New Construction		<u>394,808,500</u>	<u>4.9%</u>	<u>3.7%</u>
Land book Taxable	\$8,189,928,900	\$9,849,177,600	20.3%	18.7%
Mid-Year Supplements – Est.	<u>\$ 100,000,000</u>	<u>\$ 180,000,000</u>	<u>80.0%</u>	18.7%
Taxable - Billed	<u>\$8,289,928,900</u>	<u>\$10,029,177,600</u>	<u>21.0%</u>	<u>18.7%</u>
Tax Bills	\$65,075,942	\$78,729,044		\$77,079,151
Collected – First Year	97%	97%		97%
Budget	\$63,123,664			\$74,766,776
Current Estimate at 78.5 cents		\$76,367,173		
Current Estimate at 77 cents		\$74,907,927		

Current building permit activity for both residential and commercial properties leads the Office of Real Estate Assessments to recommend a significant increase in the estimate of supplemental billings in mid-year.

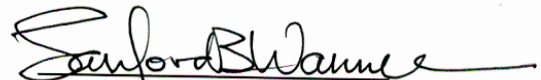
This Public Hearing was advertised under guidelines established by the Code of Virginia. Any increase in real estate taxes resulting from a general reassessment is an increase in tax levies and tax bills going to the average taxpayer. With an average 15.4 percent increase in reassessments, the tax rate would have to be reduced to 68 cents to result in the same average tax bill in FY 2007 that taxpayers paid in FY 2006. The FY 2007 Budget, adopted by the Board Supervisors in May and targeted at program and facility improvements, assumed that taxpayer bills would increase, even though the tax rate remained the same. At a reduced tax rate of 77 cents, the average tax bill would still climb 13.2 percent.

Reduce the real property tax rate to 77 cents per \$100 of assessed, generating approximately the revenue approved by the Board of Supervisors in May, with the adoption of the FY 2007 Budget. A residual amount of \$141,151 remains and it is recommended that it be added to the County Non-Departmental Budget for road improvements and water quality projects.

Staff recommends approval of the attached resolution, setting the tax rate at 77 cents for FY 2007 and appropriating \$141,151 to Non-Departmental Budget.

John E. McDonald

CONCUR:



Sanford B. Wanner

JEM/gs
PropTaxRev.mem

Attachment

RESOLUTION

REAL PROPERTY TAX RATE

WHEREAS, the Board of Supervisors of James City County is in receipt of the County landbook as of July 1, 2006; and

WHEREAS, the total value of the landbook exceeds earlier estimates used in approving the budget for the fiscal year ending June 30, 2007 (FY 2007); and

WHEREAS, estimated tax collections for FY 2007, using the values in the July 1, 2006, landbook, exceed those in the adopted budget by \$1,600,397; and

WHEREAS, the Board of Supervisors desires to lower the tax rate to \$0.77 per \$100 assessed value as a result of the higher actual landbook value, resulting in \$141,151 in additional revenue in FY 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the FY 2007 Budget by reducing the tax rate on real property for FY 2007 from \$0.785 to \$0.77 per \$100 of assessed value.

BE IT FURTHER RESOLVED that the FY 2007 Budget be amended and \$141,151 in additional real property tax revenue be appropriated to the Non-Departmental category of the County's General Fund to assist in funding road improvement and water-quality projects

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

PropTaxRev.res

**REZONING -02-06/MASTER PLAN-03-06/SPECIAL USE PERMIT-19-06. Mason Park -
Reduced Street Width Request
Staff Report for the September 12, 2006, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

June 5, 2006, 7 p.m. (applicant deferral)

July 10, 2006, 7 p.m. (applicant deferral)

August 7, 2006, 7 p.m.

Board of Supervisors:

September 12, 2006, 7 p.m. (Applicant deferral)

October 10, 2006, 7 p.m. (Tentative)

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy, Geddy, Harris, Franck & Hickman, LLP

Land Owner:

Mr. Griffin W. Fernandez

Proposal:

To rezone 9.11 acres of land from R-8, Rural Residential District, to R-2, General Residential District, with a request for a special use permit to allow an open-space cluster development to construct 15 single-family detached dwelling units with an overall density of 1.65 dwelling units per acre.

Location:

1916 Jamestown Road

Tax Map/Parcel No.:

(46-4)(1-17)

Parcel Size:

9.11 acres

Existing Zoning:

R-8, Rural Residential District

Proposed Zoning:

R-2, General Residential District, with proffers

Comprehensive Plan:

Low-Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

The applicant has requested that this case be deferred until the October 10, 2006 Board of Supervisors meeting. Staff concurs with this request.

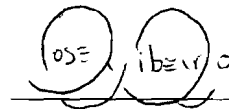
Staff Contact:

José-Ricardo L. Ribeiro

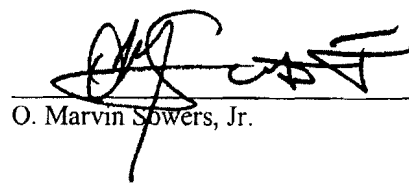
Phone: 253-6685

JLR/gb

z-02_mp03-06_sup19-06_deferred



Jose L. Ribeiro



O. Marvin Sowers, Jr.

ATTACHMENT:

1. Deferral letter from applicant

GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

VERNON M. GEDDY, JR.
STEPHEN D. HARRIS
SHELDON M. FRANCK
VERNON M. GEDDY, III
SUSANNA B. HICKMAN

ANDREW M. FRANCK
RICHARD H. RIZK

MAILING ADDRESS:
POST OFFICE BOX 379
WILLIAMSBURG, VIRGINIA 23187-0379

September 6, 2006

Mr. Jose-Ricardo Ribeiro
James City County Planning Division
101-A Mounts Bay Road
Williamsburg, Virginia 23185

Re: SUP-19-06; Z-2-06; MP-3-06/Mason Park

Dear Jose:

I am writing on behalf of the applicant to request that the Board of Supervisors defer consideration of this case until its October meeting. As I mentioned, HHHunt is having a company wide meeting and celebration of the 40th anniversary of the company on September 12, 2006 in Cary, North Carolina and Steve Miller and everyone else in the company will be attending. Sorry for any inconvenience this may cause but Steve would like to be present when the case is considered by the Board. Thanks for your help.

Very truly yours,

GEDDY, HARRIS, FRANCK & HICKMAN, LLP



Vernon M. Geddy, III

VG/tmg

Cc: Mr. Steve Miller

**REZONING Z-3-06, SUP-21-06, MP-4-06. Pleasant Hill Station
Staff Report for the September 12, 2006, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

July 10, 2006, (applicant deferral), 7:00 p.m.

August 7, 2006, 7:00 p.m.

Board of Supervisors:

September 12, 2006, 7:00 p.m.

SUMMARY FACTS

Applicant:

James Peters, AES Consulting Engineers

Land Owner:

Hill Pleasant Farm, Inc.

Proposal:

Proposed car wash with two other supplementary uses

Location:

7152 Richmond Road

Tax Map/Parcel No.:

(24-1) (1-5)

Parcel Size:

4.7 acres

Existing Zoning:

A-1, General Agricultural

Proposed Zoning:

B-1, General Business

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report. Staff believes the attached proffers will adequately mitigate impacts from this development. Staff recommends that the Board of Supervisors approve the Rezoning, Master Plan, and Special Use Permit applications with the acceptance of the proffers.

Staff Contact:

Jason Purse

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission voted 6-0 (with one abstention) to recommend approval of the Rezoning, Master Plan, and Special Use Permit with the acceptance of the proffers.

Proposed Changes Made Since Planning Commission Meeting

Removed specially permitted uses from excluded uses on Proffer No. 9. Added the following uses to that list: funeral homes, houses of worship, dance halls, assembly halls, and bowling alleys.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

PROJECT DESCRIPTION

Mr. James Peters has applied to rezone a 4.7-acre portion of the 403-acre Hill Pleasant Farm parcel located at 7152 Richmond Road from A-1, General Agricultural, to B-1, General Business, with proffers, with a Special Use Permit (SUP), for the development of a car wash, as well as two other commercial uses. The property is also known as Parcel No. (1-5) on the James City County Tax Map No. (24-1).

The SUP is needed as a part of this application to allow for a car wash on property zoned B-1, as well as a traffic generation rate which is over 100 peak hour trips.

Proffers

- Master Plan for the property, including a car wash, as well as additional supplemental uses
- Water Conservation standards to be approved by the James City Service Authority (JCSA)
- Architectural Review, including submitted elevations for the car wash, as well as submitting elevations for the additional uses prior to County approval
- Owner's Association for the property
- Right-turn lane for the main entrance on the property
- A traffic signal warrant analysis to be completed six months after the first Certificate of Occupancy (C.O.) is granted on the site, as well as the owner installing any required improvements.
- Lighting to be reviewed and approved by the Director of Planning
- A 50-foot Community Character Corridor buffer along the front of the property, including a berm and enhanced landscaped section in front of the buildings on the site
- Master Stormwater Management Plan to be reviewed and approved by the Environmental Division

Staff Comment: The proffers are discussed in the relevant sections of this report.

PUBLIC IMPACTS

Environmental

Watershed: Yarmouth Creek

Proffers:

- Master Stormwater Management Plan to be reviewed and approved by the Environmental Division.
- Special stormwater criteria including use of flatter site grades, bioretention, flat bottom, wide swales, underground pipe storm, drywell, or rain barrels for major downspouts, in accordance with the Yarmouth Creek Watershed Management Plan

Staff Comments: The Environmental Division has reviewed the proposal and concurs with the Master Plan and proffers as proposed. The conceptual stormwater management plan has been approved by the Environmental Division, and similar to other applications final site design, including stormwater management and Best Management Practice (BMP) design, will be determined at the site plan stage.

Public Utilities-

This site is inside the Primary Service Area (PSA) and will be served by public water and sewer.

Proffers:

- Water Conservation standards to be reviewed and approved by the JCSA. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, equipping the automatic car wash with an approved water recycling system, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

Staff Comments: JCSA staff has reviewed the proposal and concurs with the Master Plan and proffers as

proposed. Similar to other SUP cases at the site plan processing level, the applicant will work with JCSA staff to finalize the water conservation standards to include what is listed in the proffers, including a water recycling system for the car wash to limit the amount of public water needed by this project.

Transportation

The applicant's traffic study determined there would be 9 AM peak hour and 51 PM peak hour trips generated by an automated car wash, which is the only assured use for this site; altogether there would be 612 total weekday daily trips in and out of the car wash. Of the two proposed types, Self-Service or Automated car wash, the automated wash has a higher traffic generation rate. Since this project will have both self-service and automated features, the higher traffic generation rate was used.

The study also selected other various possible uses and determined that their traffic impact during peak hours would be: 102 AM peak hour trips and 204 PM peak hour trips for a four-lane drive-through bank; 12 AM peak hour and 21 PM peak hour trips for a Lube shop; and 11 AM peak hour and 22 PM peak hour trips for a Self-Service car wash. Combined, the four uses would generate approximately 2,849 weekday daily trips for this project. The existing Level of Service conditions for Richmond Road is a 'B' for the northbound approach and an 'A' for the westbound left turn.

A traffic signal coordination study was also completed by the applicant. If a signal is needed at the entrance of this development, the study shows that it does not cause undue interference with other signals along the Route 60 corridor.

2005 Traffic Counts (for Richmond Road): Croaker Road to Lightfoot Road: 18,770 average daily trips. Forge Road to Croaker Road: 15,211 average daily trips.

2026 Volume Projected: Croaker Road to Centerville Road: 33,500 average daily trips. This is listed in the "watch" category.

Road Improvements: The applicant has proffered to put in a right-turn lane at the entrance of the property along Richmond Road. The applicant will conduct a traffic signal warrant analysis after the first issued C.O. on the property and will construct any necessary improvements as required by (Virginia Department of Transportation (VDOT) at that point. In addition, as a part of the Master Plan there are sidewalks provided along Richmond Road, as well as curb cuts for possible crosswalks at the entrance of the property leading across Richmond Road

Proffers:

- The main entrance to the Property shall be from Route 60 in the approximate location shown on the Master Plan. A right-turn lane with 150 feet of storage shall be constructed at the main entrance.
- The turn lanes shall also include shoulder bike lanes and shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of any building permit for buildings on the Property.
- Prior to the issuance of a first building permit for construction on the Property, Owner shall post a bond or other surety in form acceptable to the County Attorney for the installation of a traffic signal at the main entrance when and if VDOT traffic signal warrants are met. Owner shall conduct a traffic signal warrant study (i) within six months of the buildout of the Property or (ii) at such earlier time upon the request of VDOT and submit the study to the County and VDOT for their review and approval. If the approved study determines such a signal is warranted, the Owner shall install the signal.
- Updated traffic study for any use on the site that will contain a higher trip generation rate than what is proposed in this current traffic study, as well as any additional improvements identified.
- Reservation of right-of-way for a possible future road connection to the adjacent Go Karts Plus parcel to the east of the Property.

VDOT Comments: VDOT has reviewed and concurs with the proffers and the proposed Master Plan. VDOT concurs with the applicant's traffic study, as well as his recommendation for improvements. Even

though a traffic signal is not needed at this time, VDOT has worked with the applicant and feels that with the additional traffic study, any future traffic impacts coming from this development will be adequately addressed prior to final completion of this project site should any additional improvements be required.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>Lightfoot Mixed Use (Page 127): Suitable for a mixture of limited industry, commercial, and moderate density housing.</p> <p>Staff Comment: Staff finds that the use as proposed meets the land use designation for this area as the principle proposed uses are commercial in nature.</p> <p>In the description of this area in the Comprehensive Plan on the west side of Richmond Road (opposite from this project) suggests that commercial uses should not be developed in a “strip” commercial fashion, and while there is no specific language for the east side, staff would note that “strip commercial” development is addressed in the Comprehensive Plan both in general and as a part of the Lightfoot Mixed-Use area. While evaluation for “strip commercial” development is not paramount to this Land Use designation, it must be considered as a factor in the overall application of the Comprehensive Plan.</p>
General	<p>Strip Commercial (Pages 77 & 117): The Comprehensive Plan encourages commercial developments to develop in an attractive and convenient manner while avoiding “strip” commercial characteristics. Incremental development that allows inherent traffic congestion, non-centralized commercial activity, and reliance on automobile dependency are all discouraged. The Comprehensive Plan also recognizes the need to minimize new entrances from a traffic perspective, a design feature that is often not present in strip commercial development. Strip commercial development is characterized by some combination of the following characteristics:</p> <ul style="list-style-type: none"> a. Street frontage parking lots b. No provisions for pedestrian access between individual uses c. Usually only one-store deep d. Buildings are arranged linearly rather than in clusters e. No design integration among individual uses f. Multiple access points <p>Staff Comment: Some ways of reducing the “strip” commercial design would be to incorporate at least some of the following suggestions:</p> <ul style="list-style-type: none"> a. Landscaped parking lots, including trees and landscaped island separation between bays. b. Peaked roofs, rather than flat ones. c. Limited and shared access d. Wide sidewalks abutting the storefronts with canopy or roof overhangs over pedestrian areas. e. Benches, sculpture, or pedestrian-oriented open spaces to help make the overall development more attractive. f. Buildings arranged in clusters, rather than oriented linearly. <p>This project meets some of the criteria for avoiding strip commercial development in that it provides landscaped street frontage parking areas, limited access points, parking entirely behind or beside the buildings, sidewalks in front of storefronts, as well as a pedestrian path around the BMP. However, the buildings are arranged in a one-store deep, non-clustered orientation, and without having a definitive use list, the parcel does not necessarily have an integration of uses. All of these are aspects of a “strip commercial” development. Because a majority of uses are still speculative in nature, there is no way to accurately judge how this project will fit some of the Comprehensive Plan criteria. However, staff finds that given the shape of the parcel, other than having a single use on the property, there are not many alternatives with respect to building orientation to avoid this “strip commercial” pattern.</p>

Development Standards	<p><i>General Standard #5 - Pages 134-35:</i> Minimize the impact of development proposals on overall mobility, especially on major roads by limiting access points and providing internal, on-site collector and local roads, side street access and joint entrances...Provide for safe, convenient, and inviting bicycle, pedestrian, and greenway connections to adjacent properties and developments in order to minimize such impacts and to provide adequate access between residential and nonresidential activity centers and among residential neighborhoods.</p> <p><i>General Standard #6 - Page 135:</i> Provide for ultimate future road, bicycle and pedestrian improvement needs and new road locations through the reservation of adequate right-of-way, and by designing and constructing roads, drainage improvements, and utilities in a manner that accommodates future road, bicycle and pedestrian improvements.</p> <p><i>Commercial Standard #1 - Page 136:</i> Locate proposed commercial and industrial developments adjacent to compatible uses.</p> <p><i>Commercial Standard #3 - Page 136:</i> Mitigate objectionable aspects of commercial or industrial uses through an approach including performance standards, buffering, and special setback regulations.</p>
	<p>Staff Comment: This project provides both sidewalks and shoulder bike lanes along the front of the property, including possible connections for crosswalks across Richmond Road should this intersection ever become signalized. This project meets the limited access criteria by only providing one four-way entrance-exit point, as well as providing for possible future access to the adjacent parcel to the south. Because of the future reserved right-of-way, the pedestrian and bicycle improvements and the enhanced and bermed buffer area along the Community Character Corridor, staff finds that this proposal meets the requirements of some of the above-referenced Development Standards. However, since the supplementary uses are not currently established, adequate analysis cannot take place to determine the overall compliance with <i>Commercial Standard #3</i>.</p>
Goals, strategies and actions	<p><i>Strategy #2 - Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.</p> <p><i>Strategy #4 - Page 138:</i> Encourage commercial and industrial uses to develop in compact nodes in well-defined locations within the PSA.</p>
	<p>Staff Comment: Staff feels that although architectural elevations are provided for the car wash, these do not necessarily represent how the overall development will compliment existing, surrounding development once built out. Because of the speculative nature of the project elevations will be provided at a later date for review and approval by the Planning Director for all future uses to help ensure that architecture is consistent with what is present in the surrounding area. Staff also believes that because of the buffering along Richmond Road and proffered height limits of 35 feet, this project meets most of the standards listed in the above mentioned strategies.</p>

Environment

General	<p><i>Yarmouth Creek Watershed Management Plan - Page 47:</i> A final Watershed Management Plan with recommendations on preserving this watershed was completed in 2003.</p>
	<p>Staff Comment: There are no projects immediate to this site designated in the plan. However, the applicant has proffered to include special stormwater criteria that will be met on the Master Stormwater Management Plan to be submitted with the Site Plan, as discussed in the Yarmouth Creek Watershed Management Plan.</p>
Goals, strategies and actions	<p><i>Strategy #2 - Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p><i>Action #5 - Page 66:</i> Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.</p> <p><i>Action #23 - Page 67:</i> Encourage residential and commercial water conservation, including the reuse of grey water where appropriate.</p>
	<p>Staff Comment: JCSA will require that water recycling takes place on-site for the car wash, and the applicant has proffered to include those measures in his water conservation standards. The applicant has also proffered features similar to those described in Action #5 listed above. The Environmental Division is confident that the applicant will be able to minimize adverse impacts by achieving those measures.</p>

Transportation

General	<p><i>Sidewalks and Bikeways - Pages 69-70:</i> Strongly recommends development of sidewalks and related pedestrian facilities to connect residential to nonresidential areas, as well as construction of bike facilities and ensuring all new facilities and future plans meet the public's desires and needs.</p> <p><i>Richmond Road Plan - Page 77:</i> Minimize the number of new signals and entrances and ensuring efficient signal placement and coordination.</p> <p>Staff Comment: The applicant has provided both pedestrian and bicycle improvements along Richmond Road and has limited the possible entrances with signalization to one. The applicant has also provided a traffic signal coordination study to VDOT, which demonstrates the ability to ensure efficient placement and coordination of the possible signal.</p>
Goals, strategies and actions	<p><i>Strategy #1 - Page 80:</i> Continue to encourage landscaped roadways and roadway designs that enhance the County's image and reduce the visual impact of auto-related infrastructure.</p> <p><i>Strategy #3 - Page 80:</i> Encourage commercial and industrial development patterns that maintain or improve the planned function and character of County roadways.</p> <p><i>Strategy #5 - Page 80:</i> Support the provision of sidewalks and bikeways in appropriate areas...</p> <p><i>Action #5 - Page 81:</i> Encourage land use densities, intensities, and development patterns that recognize the capacities, roadway functional classification, and scenic corridor designations of existing and proposed roads.</p> <p><i>Action #6 - Page 81:</i> Assure that private land developments adequately provide transportation improvements which are necessary to serve such developments, or that these developments do not occur in advance of necessary improvements or compromise the ability to provide such facilities.</p> <p><i>Action #7 (a) - Page 81:</i> Limiting driveway access points and providing joint entrances, side street access, and frontage roads.</p> <p>Staff Comment: In both the proffers and on the Master Plan the applicant has provided a design that will ensure an enhanced roadway landscaped area that will reduce the visual impact of the development.</p> <p>This project also provides future traffic studies to ensure future uses on the property meet necessary requirements, and specifically meet the goals stated in Actions Nos. 5 and 6, with respect to the ability to encourage compatible land use intensities and provide adequate transportation improvements.</p>

Community Character

General	<p><i>Richmond Road Community Character Corridor - Pages 83-84:</i> 50 foot buffer requirement for commercial uses along this road. This also includes parking and other auto-related areas clearly as a secondary component of the streetscape. Providing enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the urban corridor.</p> <p>Staff Comment: The applicant has provided the 50-foot Community Character Buffer on the Master Plan, which includes enhanced landscaping as well as two-to-four-foot berming in front of the buildings on the property. Additionally the applicant has provided all of the parking for the uses behind the buildings, which is important for the visual quality of the corridor.</p>
Goals, strategies and actions	<p><i>Strategy #3 - Page 95:</i> Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt networks, and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Action #4 - Page 96:</i> Identify vistas and other scenic resources that should be protected and encourage building, site, and road designs that enhance the natural landscape and preserve valued vistas. These designs should also minimize any potential negative impacts with regard to noise and light pollution and other quality of life concerns.</p> <p><i>Action #24 (b) - Page 97:</i> Encourage new developments to employ site and building design techniques include berms, buffers, landscaping, building designs that appear as collections of smaller buildings rather than a single large building, building colors and siding that cause large structures to blend in with the natural landscape, and low visibility parking locations.</p> <p>Staff Comment: This parcel is located outside the Norge Community Character Area; however, the applicant has provided elevations for the car wash which take into account some of the</p>

	<p>architectural characteristics of prominent Norge buildings. Staff would note that this project helps to reestablish the identity of Norge from Lightfoot by the inclusion of the fruit “orchard” and adherence to some of the design standards present in the Comprehensive Plan including parking location, special landscaping and buffering, architectural and height limitations, and pedestrian and bike facilities.</p> <p>Even with the applicant’s proffering of aesthetic buffers and landscaping, this project still promotes a number of the “strip commercial” characteristics discussed in the Land Use Section because of its shape limitations. However, with low-visibility parking locations and natural landscapes at one end of the property (leading into Norge), this project helps provide some of the characteristics of Action #24 from this section of the Comprehensive Plan. Because of the speculative nature of the project, elevations will be provided at a later date for review and approval by the Planning Director for all future uses to help ensure that architecture is consistent with what is present in the surrounding area.</p>
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Comprehensive Plan Staff Comments

Overall, staff feels that this application, as proposed, is generally in compliance with the Comprehensive Plan.

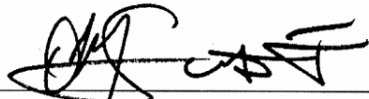
The uses proposed fit within those suggested for the Lightfoot Mixed Use area. The future traffic studies will help ensure that the intensities of the uses will not be out of scale with what is proposed under this Master Plan. Proffers for the development ensure that the visual impacts of this proposal will be minimized by an enhanced, bermed landscaped area in front of the buildings on the property, and architectural elevations to be reviewed by the Planning Director keeping these uses compatible with other buildings in the area. Traffic impacts will be minimized through limited access to Richmond Road, as well as a reserved right-of-way for a possible connection to the adjacent parcel. Staff has concerns over the speculative nature of the supplementary parcels and the “strip commercial” nature of this development. However, given the limitations of the parcel and the applicant’s proffers for mitigating future impacts, staff feels that this project will not negatively affect the community.

RECOMMENDATION

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report. Staff believes the attached proffers will adequately mitigate impacts from this development. Staff recommends that the Board of Supervisors approve the Rezoning, Master Plan, and Special Use Permit applications with the acceptance of the proffers.

Jason Purse, Planner

CONCUR:



O. Marvin Sowers, Jr.

Z3-06Sup21-06Mp4-06.doc
JP/gb

ATTACHMENTS:

1. Planning Commission Minutes
2. Resolutions
3. Location Map
4. Master Plan (Under separate cover)
5. Community Impact Statement
6. Architectural Elevations
7. Proffers

**UNAPPROVED MINUTES OF THE AUGUST 7, 2006 MEETING
OF THE PLANNING COMMISSION**

Z-3-06/MP-4-06/SUP-21-06 Pleasant Hill Station

Mr. Hunt stated that the case involved his company and he recused himself and left the boardroom.

Mr. Obadal stated a prior business relationship with the developer's father. He stated that he felt enough time had elapsed that he felt comfortable hearing the case.

Mr. Jason Purse presented the staff report stating that Mr. James Peters has applied to rezone a 4.7 acre portion of the 403 acre Hill Pleasant Farm parcel located at 7152 Richmond Road from A-1, General Agricultural, to B-1, General Business, with proffers, with a Special Use Permit, for the development of a car wash, as well as two other commercial uses. The property is also known as parcel (1-5) on the JCC Tax Map (24-1). The site is shown as Mixed-Use on the 2003 Comprehensive Plan Land Use Map. Mixed Use areas are centers within the PSA where higher density development, redevelopment and/or a broader spectrum of land uses are encouraged. Staff recommended approval.

Mr. Obadal asked for the location and type of proposed orchard.

Mr. Purse indicated the location on a map and stated that there would be 18 fruit trees.

Mr. Obadal stated his concern that uses for two of the parcels had not been identified.

Mr. Purse deferred the question to the applicant and stated that proffers have been offered regarding traffic and architecture, and prohibited uses.

Mr. Fraley asked about the strength of the proffers.

Mr. Purse stated that the proffers will minimize the impacts of any of the potential projects.

Mr. Obadal asked how the amount of traffic generated by the car wash was determined.

Mr. Purse explained the process of determining traffic calculations.

Ms. Hughes asked if the existing stormwater system is adequate for a lube station.

Mr. Purse stated that the Environmental Division had not expressed any concerns.

Mr. Fraley asked if the project would require DRC review.

Mr. Purse said it would not.

Mr. Fraley asked how the environmental design is evaluated when the project has undetermined uses.

Mr. Cain stated that it would be reviewed when the applicant submitted the site plan.

Ms. Hughes asked what happens if it is constructed after the existing stormwater basin is in place.

Mr. Cain gave an example of a similar situation where the applicant was required to install an engineered system to separate the oily residue before it entered the basin.

Mr. Obadal asked how much is separated out.

Mr. Cain said they would be designed specifically for the site.

Mr. Obadal stated that he did not think it would remove more than 70% of the pollutants.

Mr. Cain stated that several of the devices reduce pollutants by more than that.

Mr. Obadal and Mr. Cain discussed possible solutions for different uses.

Mr. Obadal expressed his concern about the lack of environmental studies available to make a judgment about the project and the amount of water the project would require.

Mr. Thomas stated that detailed information is not generally submitted with a rezoning request.

Mr. Obadal thanked the Environmental Division for their work.

Mr. Kennedy asked if there have been any problems with any of the other car washes or oil station facilities in James City County.

Mr. Cain stated that he was not aware of any.

Mr. Kennedy asked if the same environmental standards were applied to Williamsburg Dodge when it was first proposed.

Mr. Thomas said yes and explained how the projects are evaluated.

Mr. Obadal stated that according to his research a 6 bay facility used 100,000 gallons of water a year.

Mr. Kennedy stated that according to 2002 data a two-person household uses 248,000 gallons of water per quarter. He also stated that car washes reuse water.

Mr. Fraley opened the public hearing.

Mr. Geddy represented the applicant. He stated that the parcel is currently a farm. He stated that the applicant is proposing a small scale commercial development to include a car wash and two other uses such as a bank, a sit-down restaurant, and a lube shop.

Mr. Obadal asked what type of filtration system will be used.

Mr. Doug Harbin, the applicant, stated that the proposal is for a re-claim system for the automatic wash that would re-claim 87% to 92% of the water to be used for the next car. He also stated that such a device is not feasible for the self-service wash because most of the water evaporates.

Mr. Obadal asked how many gallons would be used per year.

The applicant stated that he had some preliminary data and left the podium to retrieve it.

Mr. Obadal asked where the stormwater run-off is collected.

Mr. Geddy stated that it is collected from the self-service area and drained into the sewer system after being filtered.

Mr. Obadal stated that the filters capture particles not substances such as phosphate and nitrate so that these substances will enter the stormwater system.

Mr. Geddy explained that it will be collected in the sanitary sewer and routed to an HRSD (Hampton Roads Sanitation District) treatment facility.

Mr. Kennedy asked how long the water in the automatic wash is reused.

Mr. Brad Harbin stated that the water eventually recycles itself out through evaporation.

Mr. Kennedy stated that this saves water compared to washing a car at home.

Mr. Obadal asked about security.

Mr. Doug Harbin stated that the self-serve bays are glass and well lighted.

Mr. Obadal asked if there was a way to close the bays at night.

Mr. Harbin explained that this type of business is designed to be open at night.

Mr. Obadal asked if it will be staffed all the time.

Mr. Harbin said there will be security cameras.

Mr. Kennedy asked about the lighting impact to neighbors.

Mr. Geddy said there is a lighting proffer.

Mr. Kennedy asked if it was possible for the lights to turn themselves off when not in use.

Mr. Geddy said they would look into it.

Hearing no other requests to speak the public hearing was closed.

Mr. Billups stated that he did not have any major concerns. He also stated that he would depend on staff to monitor what is actually constructed.

Mr. Fraley stated that it was unusual to have speculative uses with a project of this size and that it would fall on staff to monitor the other two potential uses in the absence of DRC review.

Mr. Sowers stated that it is unlikely that the project would be heard by the DRC.

Ms. Hughes stated that she would depend on staff to make sure that the eventual uses are consistent with the Comprehensive Plan. She also stated that lube shops and gas stations have contaminations associated with them and cautioned everyone to make sure any runoff is captured and treated. She stated her support for the plan.

Mr. Kennedy stated that the proposal brings many benefits to the site and an enhancement to the Norge Corridor.

Ms. Jones stated her support for the application.

Mr. Obadal said sites like this have to be carefully maintained. He asked if water is delivered to the car wash during droughts.

Mr. Kinsman stated that he thought commercial car washes were exempt from water restrictions.

Mr. Obadal asked if they are charged a higher rate.

Mr. Kinsman stated that fees are based on water usage.

Mr. Obadal stated that he thought the city of Portsmouth had problems with car washes and might have developed some internal guidelines that staff might find helpful.

Mr. Fraley stated that the applicant has proffered to have water conservation standards be approved by the JCSA.

Mr. Sowers said the proffers specifically mention water recycling.

Mr. Fraley asked that applicants not bring forward applications that contain speculative uses. He thanked staff and the applicant for their work on the project.

Mr. Kennedy motioned to approve the application and attached conditions.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application was approved (6-0). AYE: Billups, Jones, Obadal, Hughes, Kennedy, Fraley (6); NAY (0). (Hunt abstained).

Mr. Hunt returned to the dias.

RESOLUTION

CASE NO. Z-03-06/MP-4-06. PLEASANT HILL STATION

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. Z-03-06/MP-4-06, with Master Plan, for rezoning 4.7 acres from A-1, General Agricultural, to B-1, General Business, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on August 7, 2006, recommended approval, by a vote of 6 to 0; and

WHEREAS, the property is located at 7152 Richmond Road and can be further identified as Parcel No. (1-5) on James City County Real Estate Tax Map No. (24-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-03-06/MP-4-06 and accepts the voluntary proffers.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

Z3-06Mp4-06.res

RESOLUTION

CASE NO. SUP-21-06. PLEASANT HILL STATION

WHEREAS, The Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. James Peters has applied for an SUP to allow for the development of a car wash, as well as a traffic generation rate which is over 100 peak hour trips; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as Parcel No. (1-5) on James City County Real Estate Tax Map No. (24-1); and

WHEREAS, the Planning Commission, following its Public Hearing on August 7, 2006, voted 6 to 0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 21-06 as described herein with the following conditions:

1. If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as clearing, grading, and excavation of trenches necessary for the water and sewer mains.
2. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

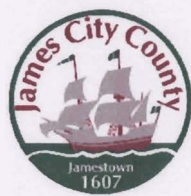
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

Sup-21-06.res

Z-3-06/SUP-21-06/MP-4-06

Pleasant Hill Station



PROFFERS

THESE PROFFERS are made this ~~31~~⁴ day of August, 2006 by HILL PLEASANT FARM, INC., a Virginia corporation (together with its successors and assigns, the "Owner") and DOUG HARBIN ("Buyer").

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 7152 Richmond Road, Williamsburg, Virginia and being Tax Parcel 2410100005. Buyer has contracted to purchase, conditioned upon rezoning, a portion of the parcel containing 4.7± acres, being more particularly described on Exhibit A attached hereto (the "Property"). The Property is now zoned A-1.

B. Owner and Buyer have applied to rezone the Property from A-1 to B-1, General Business District, with proffers.

C. Buyer has submitted to the County a master plan entitled "Rezoning and Special Use Permit for Doug Harbin" prepared by AES Consulting Engineers dated May 26, 2006, revised July 21, 2006 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned B-1.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITION

1. **Master Plan.** The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.

2. **Water Conservation.** The Owner shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, equipping the automatic car wash with an approved water recycling system, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Irrigation wells shall only draw water from the Upper Potomac or Aquia Aquifers and shall be subject to the approval of the General Manager of James City Service Authority. The standards shall be approved by the James City Service Authority prior to final site plan approval.

3. **Architectural Review.** (a) Owner has submitted to the County a conceptual architectural perspective of the car wash to be located on the Property dated June 27, 2006 (the "Perspective") together with Architectural Guidelines for the entire Property (the "Guidelines") prepared by PMA Planners + Architects. The architecture and colors of the car wash shall be generally consistent with the Perspective as determined by the Director of Planning. All buildings on the Property, including the car wash, shall be of a harmonious and uniform architectural design and color scheme

consistent with the car wash and shall be consistent with the Guidelines. No building on the property shall exceed thirty-five (35) in height.

(b) Prior to the County being obligated to issue a building permit for each building on the Property, Owner shall submit to the Director of Planning conceptual architectural plans, including architectural elevations, for the building and any associated structures for the Director of Planning to review and approve for consistency with the Guidelines and this Proffer. Decisions of the Director of Planning may be appealed to the Development Review Committee, whose decision shall be final. Completed buildings shall be consistent with the approved plans.

4. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, open space areas, private streets, sidewalks, sewer and water systems and all other common areas under the jurisdiction of the Association, and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing

Documents. The Association shall be responsible for the maintenance of (i) the private sewer system serving the Property pursuant to a Perpetual Maintenance Agreement to be entered into with James City Service Authority and (ii) any private water lines.

5. Entrances/Turn Lanes. (a) The main entrance to the Property shall be from Route 60 in the approximate location shown on the Master Plan. A right turn lane with 150 feet of storage shall be constructed at the main entrance.

(b) Owner shall install a second right in only entrance to the Property from Route 60 in the approximate location shown on the Master Plan. If and when this second entrance is installed, a right turn lane with 150 feet of storage and a 150 foot taper from Route 60 into the second entrance shall be constructed.

(c) The turn lanes proffered hereby shown on the Master Plan shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards, shall be approved by VDOT and the Planning Director, shall include shoulder bike lanes and shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of any building permit for buildings on the Property.

(d) Prior to the issuance of the first building permit for construction on the Property, Owner shall post a bond or other surety in form acceptable to the County Attorney for the installation of a traffic signal at the main entrance when and if VDOT traffic signal warrants are met. Owner shall conduct a traffic signal warrant study (i) within six months of the buildout of the Property or (ii) at such earlier time upon the request of VDOT and submit the study to the County and VDOT for their review and approval. If the approved study determines such a signal is warranted, the Owner shall

install the signal. If the approved study determines such a signal is not warranted, Owner shall have no further obligation with respect to the signal and its bond or surety shall be released by the County.

(e) If any use is proposed to locate on the Property with a materially higher trip generation based on ITE trip generation figures than the use used in the Traffic Study which results in an overall materially higher trip generation from the Property as determined by the Director of Planning, then Owner shall submit with the proposed site plan for the new use an updated traffic impact study to the Director of Planning and VDOT based on the new proposed use for their review and approval and shall implement the recommendations of the approved updated study prior to issuance of certificate of occupancy for the new use.

6. **Lighting.** All light poles on the Property shall not exceed 20 feet in height. All external lights on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. No glare defined as 0.1 footcandle or higher shall extend outside the property lines of the Property unless otherwise approved by the Director of Planning. Owner shall submit a lighting plan to the Director of Planning for review and approval for consistency with this Proffer prior to final site plan approval.

7. **Route 60 Buffer.** There shall be a 50 foot community character corridor buffer along the Route 60 frontage of the Property. The portion of the buffer located adjacent to buildings, parking and the BMP shown on the Master Plan shall contain enhanced (defined as 125% of Ordinance size requirements) landscaping and variable height berms from two to four feet in height generally as shown on the Master Plan. The

western most portion of the buffer area and the adjacent open space shall have installed the fruit tree orchard and naturalized meadow generally as shown on the Master Plan. A landscape plan for the entire buffer shall be submitted to the Director of Planning with the initial site plan for development on the Property for his review and approval for consistency with this proffer. The buffer shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for buildings located on the Property.

8. **Environmental.** Owner shall submit to the County a master stormwater management plan as a part of the site plan submittal for the Property, including stormwater management/best management practices, in accordance with James City County Stormwater Guidelines and in locations as generally shown on the Master Plan and low impact design measures to satisfy the Special Stormwater Criteria, located generally as shown on the Master Plan including, without limitation, use of flatter site grades, bioretention, flat bottom, wide swales, underground pipe storm drain pipe or drywell or rain barrels for major downspouts, in accordance with the Yarmouth Creek Watershed Management Plan, for review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior written approval of the Environmental Director. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property. Owner shall be responsible for keeping the culverts under Route 60 draining the Property free of debris

that would block or impede drainage from the Property.

9. Excluded Uses. The following uses generally permitted in the B-1 district shall not be permitted on the Property:

- Adult Day Care Centers
- Bowling Alley
- Child Care Centers
- Dance Hall
- Fast Food Restaurants
- Funeral Homes
- Hotels, Motels, and Convention Centers
- Houses of Worship
- Indoor Theatres
- Public Meeting Hall
- Radio and Television Stations
- Schools
- Wireless Communication Facilities

10. Reserved Right of Way. Owner shall reserve the area shown on the Master Plan as "Possible Future Connection to Adjacent Parcel" for a possible future road connection to the adjacent Go Karts Plus parcel to the east of the Property.

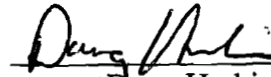
Witness the following signatures.

HILL PLEASANT FARMS, INC.

By: 

Title:

PRESIDENT



Doug Harbin

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg

The foregoing instrument was acknowledged before me this 7 day of ~~June~~, September 2006, by Donald C. Hunt as President of Hill Pleasant Farms, Inc. on behalf of the corporation.

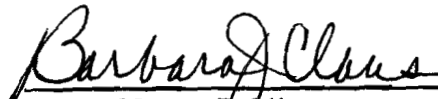

Notary Public

My commission expires: 1/31/07

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg

The foregoing instrument was acknowledged before me this 5 day of ~~June~~, September 2006, by Doug Harbin.

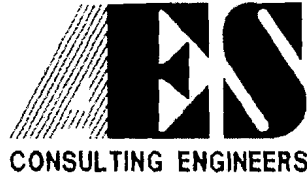

Notary Public

My commission expires: 1/31/07

Prepared by:

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Richmond, VA 23236
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September 5, 2006

***Property Description
for a Portion of the Property
Owned By Hill Pleasant Farm, Inc.***

**Portion of Tax Map Parcel #(24-1)(1-15)
Containing Approximately 5.0 Acres+/-**

All that certain piece, parcel or tract of land, situate, lying and being in the Stonehouse District of the County of James City, Virginia; said piece, parcel or tract of land is triangular in shape containing approximately 5.0 acres more or less and being more particularly described as follows:

Beginning at a point on the easterly right-of way line of U. S. Route #60, Richmond Road; said point of beginning being approximately 635 feet in a northerly direction from the intersection of Colonial Heritage Boulevard and U.S. Route #60, Richmond Road; said point being a corner to the property described hereon and the property now or formerly owned by Action Park of Williamsburg, VA., Inc.; thence in a northerly direction and along the easterly right-of-way line of U.S. Route #60, Richmond Road, a distance of 2047 feet more or less to a point, said point being a corner to the property described hereon and the intersection of the easterly right-of-way line of U.S. Route #60, Richmond Road and the westerly right-of-line of the CSX Railroad (formerly C & O Railroad); thence in a southerly direction and along the westerly right-of-way line of the CSX Railroad (formerly C & O Railroad), a distance of 2062 feet more or less to a point; said point being a corner to the property described hereon and the property now or formerly owned by Action Park of Williamsburg, VA., Inc.; thence in a westerly direction, a distance of 294 feet more or less and along the line of the property described hereon and the property now or formerly owned by Action Park of Williamsburg, VA., Inc. to the aforesaid point of beginning.

This being a portion of the same property conveyed to Hill Pleasant Farm, Inc. by deed from Harold J. Hunt, Jr. and Muriel R. Hunt, dated December 31, 1974 and duly recorded at the Clerk's Office of the Circuit Court of the County of James City, Virginia in Deed Book 158, page 176.

PROFFERS

THESE PROFFERS are made this 31st day of August, 2006 by HILL PLEASANT FARM, INC., a Virginia corporation (together with its successors and assigns, the "Owner") and DOUG HARBIN ("Buyer").

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 7152 Richmond Road, Williamsburg, Virginia and being Tax Parcel 2410100005. Buyer has contracted to purchase, conditioned upon rezoning, a portion of the parcel containing 4.7± acres, being more particularly described on Exhibit A attached hereto (the "Property"). The Property is now zoned A-1.

B. Owner and Buyer have applied to rezone the Property from A-1 to B-1, General Business District, with proffers.

C. Buyer has submitted to the County a master plan entitled "Rezoning and Special Use Permit for Doug Harbin" prepared by AES Consulting Engineers dated May 26, 2006, revised July 21, 2006 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned B-1.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITION

1. **Master Plan.** The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.

2. **Water Conservation.** The Owner shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, equipping the automatic car wash with an approved water recycling system, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Irrigation wells shall only draw water from the Upper Potomac or Aquia Aquifers and shall be subject to the approval of the General Manager of James City Service Authority. The standards shall be approved by the James City Service Authority prior to final site plan approval.

3. **Architectural Review.** (a) Owner has submitted to the County a conceptual architectural perspective of the car wash to be located on the Property dated June 27, 2006 (the "Perspective") together with Architectural Guidelines for the entire Property (the "Guidelines") prepared by PMA Planners + Architects. The architecture and colors of the car wash shall be generally consistent with the Perspective as determined by the Director of Planning. All buildings on the Property, including the car wash, shall be of a harmonious and uniform architectural design and color scheme

consistent with the car wash and shall be consistent with the Guidelines. No building on the property shall exceed thirty-five (35) in height.

(b) Prior to the County being obligated to issue a building permit for each building on the Property, Owner shall submit to the Director of Planning conceptual architectural plans, including architectural elevations, for the building and any associated structures for the Director of Planning to review and approve for consistency with the Guidelines and this Proffer. Decisions of the Director of Planning may be appealed to the Development Review Committee, whose decision shall be final. Completed buildings shall be consistent with the approved plans.

4. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, open space areas, private streets, sidewalks, sewer and water systems and all other common areas under the jurisdiction of the Association, and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing

Documents. The Association shall be responsible for the maintenance of (i) the private sewer system serving the Property pursuant to a Perpetual Maintenance Agreement to be entered into with James City Service Authority and (ii) any private water lines.

5. Entrances/Turn Lanes. (a) The main entrance to the Property shall be from Route 60 in the approximate location shown on the Master Plan. A right turn lane with 150 feet of storage shall be constructed at the main entrance.

(b) Owner shall install a second right in only entrance to the Property from Route 60 in the approximate location shown on the Master Plan. If and when this second entrance is installed, a right turn lane with 150 feet of storage and a 150 foot taper from Route 60 into the second entrance shall be constructed.

(c) The turn lanes proffered hereby shown on the Master Plan shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards, shall be approved by VDOT and the Planning Director, shall include shoulder bike lanes and shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of any building permit for buildings on the Property.

(d) Prior to the issuance of the first building permit for construction on the Property, Owner shall post a bond or other surety in form acceptable to the County Attorney for the installation of a traffic signal at the main entrance when and if VDOT traffic signal warrants are met. Owner shall conduct a traffic signal warrant study (i) within six months of the buildout of the Property or (ii) at such earlier time upon the request of VDOT and submit the study to the County and VDOT for their review and approval. If the approved study determines such a signal is warranted, the Owner shall

install the signal. If the approved study determines such a signal is not warranted, Owner shall have no further obligation with respect to the signal and its bond or surety shall be released by the County.

(e) If any use is proposed to locate on the Property with a materially higher trip generation based on ITE trip generation figures than the use used in the Traffic Study which results in an overall materially higher trip generation from the Property as determined by the Director of Planning, then Owner shall submit with the proposed site plan for the new use an updated traffic impact study to the Director of Planning and VDOT based on the new proposed use for their review and approval and shall implement the recommendations of the approved updated study prior to issuance of certificate of occupancy for the new use.

6. Lighting. All light poles on the Property shall not exceed 20 feet in height. All external lights on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. No glare defined as 0.1 footcandle or higher shall extend outside the property lines of the Property unless otherwise approved by the Director of Planning. Owner shall submit a lighting plan to the Director of Planning for review and approval for consistency with this Proffer prior to final site plan approval.

7. Route 60 Buffer. There shall be a 50 foot community character corridor buffer along the Route 60 frontage of the Property. The portion of the buffer located adjacent to buildings, parking and the BMP shown on the Master Plan shall contain enhanced (defined as 125% of Ordinance size requirements) landscaping and variable height berms from two to four feet in height generally as shown on the Master Plan. The

western most portion of the buffer area and the adjacent open space shall have installed the fruit tree orchard and naturalized meadow generally as shown on the Master Plan. A landscape plan for the entire buffer shall be submitted to the Director of Planning with the initial site plan for development on the Property for his review and approval for consistency with this proffer. The buffer shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for buildings located on the Property.

8. Environmental. Owner shall submit to the County a master stormwater management plan as a part of the site plan submittal for the Property, including stormwater management/best management practices, in accordance with James City County Stormwater Guidelines and in locations as generally shown on the Master Plan and low impact design measures to satisfy the Special Stormwater Criteria, located generally as shown on the Master Plan including, without limitation, use of flatter site grades, bioretention, flat bottom, wide swales, underground pipe storm drain pipe or drywell or rain barrels for major downspouts, in accordance with the Yarmouth Creek Watershed Management Plan, for review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior written approval of the Environmental Director. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property. Owner shall be responsible for keeping the culverts under Route 60 draining the Property free of debris

that would block or impede drainage from the Property.

9. Excluded Uses. The following uses generally permitted in the B-1 district shall not be permitted on the Property:

- Adult Day Care Centers
- Bowling Alley
- Child Care Centers
- Dance Hall
- Fast Food Restaurants
- Funeral Homes
- Hotels, Motels, and Convention Centers
- Houses of Worship
- Indoor Theatres
- Public Meeting Hall
- Radio and Television Stations
- Schools
- Wireless Communication Facilities

10. Reserved Right of Way. Owner shall reserve the area shown on the Master Plan as "Possible Future Connection to Adjacent Parcel" for a possible future road connection to the adjacent Go Karts Plus parcel to the east of the Property.

Witness the following signatures.

HILL PLEASANT FARMS, INC.

By: _____
Title: _____

Doug Harbin
Doug Harbin

STATE OF VIRGINIA
CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of June,
2006, by _____ as _____ of Hill Pleasant
Farms, Inc. on behalf of the corporation.

Notary Public

My commission expires:

STATE OF VIRGINIA
CITY/COUNTY OF Williamsburg

The foregoing instrument was acknowledged before me this 5 day of ~~June~~, September
2006, by Doug Harbin.

Barbara J. Claus
Notary Public

My commission expires: 1/31/07

Exhibit A
Property Description

SPECIAL USE PERMIT-24-06. Coleman Family Subdivision

Staff Report for the September 12, 2006, Board of Supervisors Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Board of Supervisors:

Building F Board Room; County Government Complex

September 12, 2006, 7 p.m.

SUMMARY FACTS

Applicant:

Mr. David L. Coleman

Land Owner:

Ms. Yook C. Coleman

Proposal:

The owners have requested the subdivision of their property resulting in a parcel of less than three acres in size. The parcel would be created for residential use by a member of the owners immediate family.

Location:

9024 Barnes Road

Tax Map/Parcel No.:

(10-2)(5-1D)

Parcel Size:

Proposed Lot (Lot 1-D1): 1.34 acres
Remaining Parent Lot (Lot 1-D2): 1.78 acres

Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and Section 19-17 of the James City County Subdivision Ordinance. Staff recommends approval of this application with the conditions listed in the attached resolution.

Staff Contact:

Leanne Reidenbach

Phone: 253-6685

PROJECT DESCRIPTION

Mr. David L. Coleman has applied for a special use permit (SUP) to allow a family subdivision generating two lots less than three acres in size in an A-1, General Agricultural District, located at 9024 Barnes Road. The existing property is approximately 3.13 acres and can be further identified as Parcel No. (5-1D) on James City County Real Estate Tax Map No. (10-2). This property is currently owned by Ms. Yook Coleman. The proposed subdivision would create one new 1.78-acre parcel (Lot 1-D2) to be conveyed to Mr. David Coleman, her son. The remaining parcel (Lot 1-D1) would be approximately 1.34 acres. Both lots would have access off Barnes Road. The applicant has expressed that the purpose of the subdivision would be so that he could locate on Lot 1-D2 and construct a retirement home for his mother on the new parcel. This would enable Mr. Coleman to more easily provide care for his mother.

The property is located in the A-1, General Agricultural District. The minimum lot size in A-1 for single-family detached units is three acres. Section 24-214, paragraph (d) allows for a minimum lot size of less than three acres if the creation of said lot is for use by a member of the owner's immediate family (children 18 years of age or older or parents of an owner) and an SUP is issued. The Zoning Ordinance requires only the Board of Supervisors to review and approve this type of SUP.

PUBLIC UTILITIES

Public water and sewer are not currently available to this site; therefore, each lot will be served by a septic system and well. Locations for these have been tentatively determined for both lots and will be subject to approval by the Health Department during the subdivision plat approval process.

COMPREHENSIVE PLAN

The site is located outside the Primary Service Area (PSA) and is designated as Rural Lands on the 2003 Comprehensive Plan Land Use Map. Recommended primary uses in the Rural Lands include agricultural and forestal activities and public or semi-public institutions that require a spacious site. Recommended residential uses include single-family developments at low-density and small-scale rural clusters, provided that they are compatible with the natural and rural character of the area and are in accordance with the Rural Lands Development Standards. The Plan discourages conventional large-lot residential development in the rural areas.

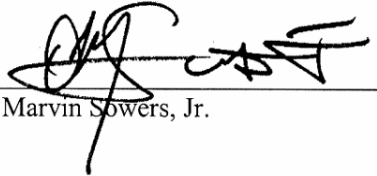
Staff Comment: While a family subdivision is not the ideal tool to accomplish this goal, staff believes the creation of the additional lot does not represent a large-scale residential development and will not negatively impact any agricultural or forestal uses. Additionally, the subdivision is generally consistent with surrounding patterns of development in this area of Barnes Road and lot acreage is only slightly smaller than surrounding parcels.

RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and Section 19-17 of the James City County Subdivision Ordinance. Staff recommends approval of this application with the conditions listed in the attached resolution.

Leanne Reidenbach

CONCUR:

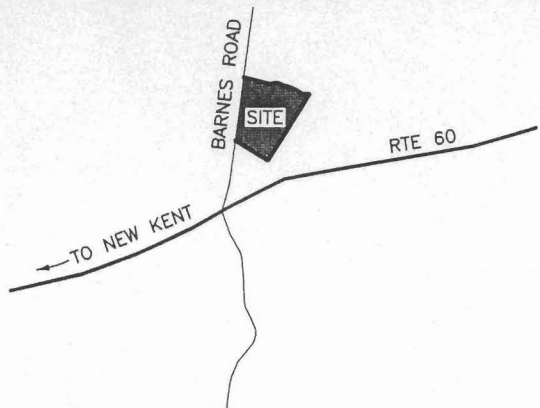


O. Marvin Sowers, Jr.

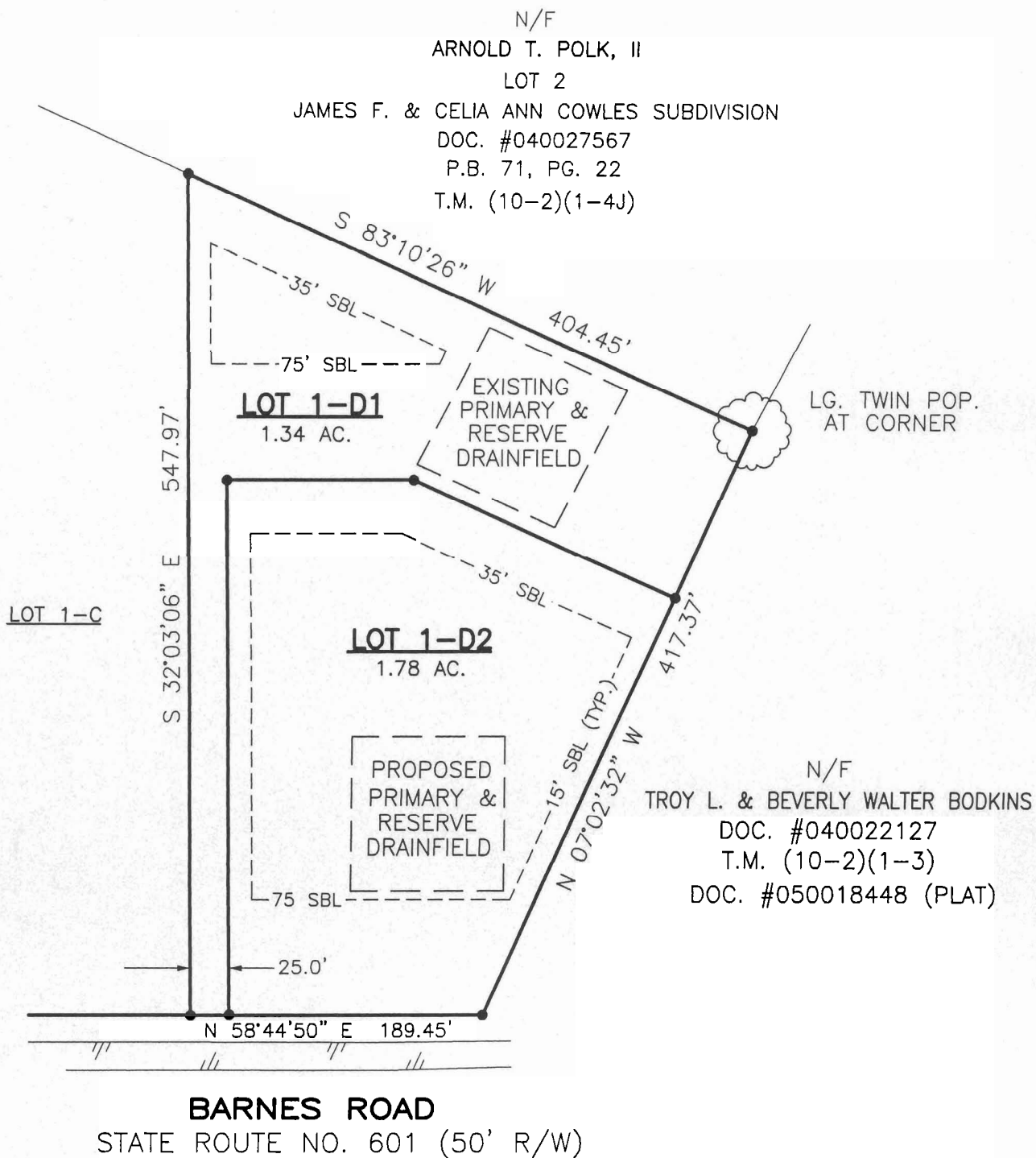
LR/g
sup-24-06

ATTACHMENTS:

1. Conceptual Subdivision Plat
2. Location Map
3. Family Subdivision Affidavit
4. Resolution



VICINITY MAP - SCALE: 1" = 2000'



REFERENCES:

PROPOSED FAMILY SUBDIVISION ON

LOT 1-D

For:

DAVE COLEMAN

James City County,

Virginia

LandTech Resources, Inc.

Surveying • GPS • Engineering

5810-F Mooretown Road, Williamsburg, Virginia 23188

Telephone: 757-565-1677 Fax: 757-565-0782

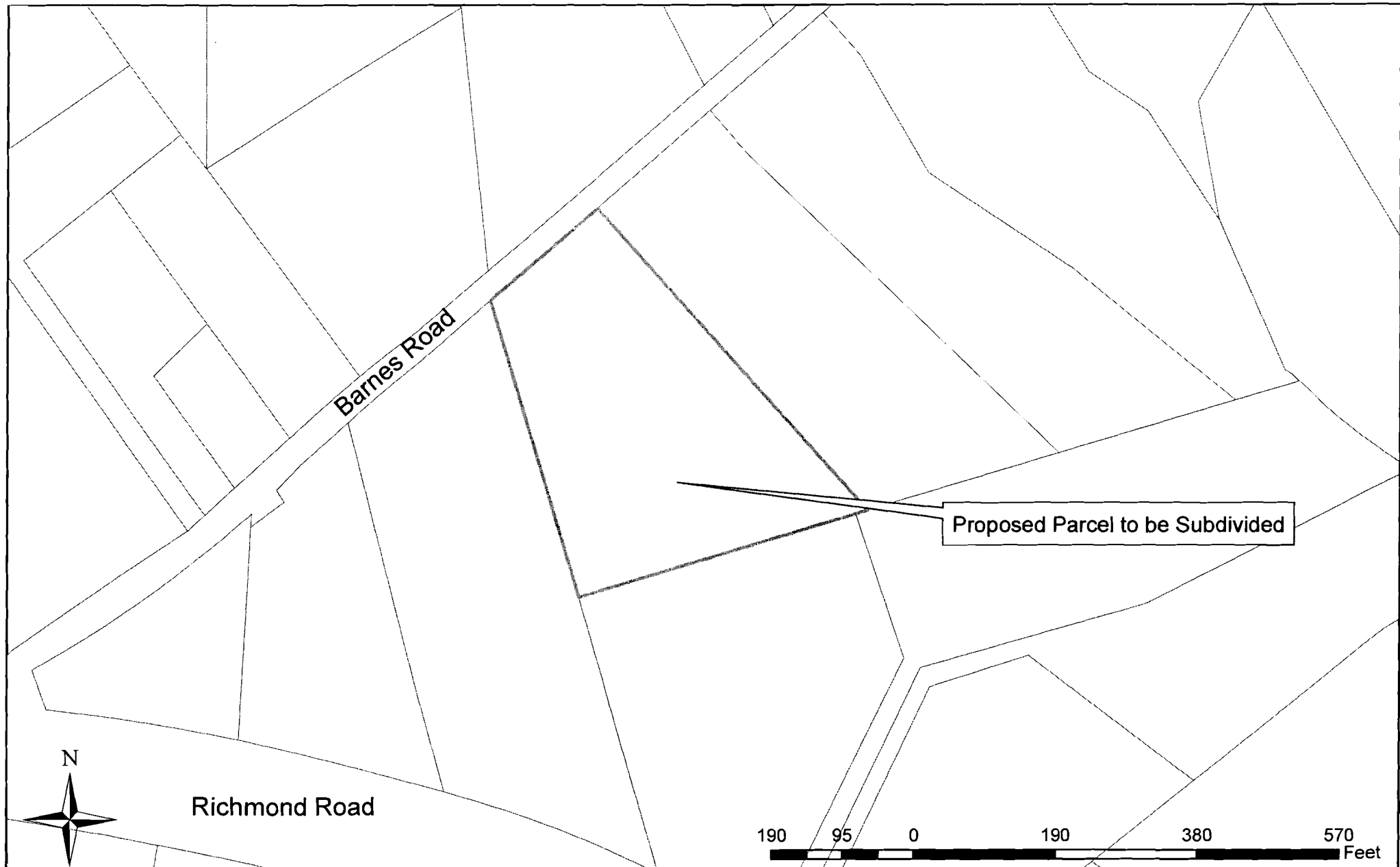
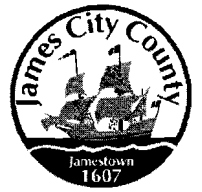
Web: landtechresources.com

DATE: 7/26/06
SCALE: 1"=100'
JOB #05-896

S-105-016

JCC SUP-24-06

Coleman Family Subdivision



FAMILY SUBDIVISION AFFIDAVIT

7/28/2006

(Date)

State of Virginia

County of James City

I, Yook C. Coleman, as requesting James City County, Virginia, to approve a family subdivision of two (2) parcel(s), consisting of ± 3.13 acres as set forth and designated on a plat entitled "Proposed Family Subdivision on Lot 1-D" made by LandTech Resources, Inc. dated 7/26/06.

This subdivision is being made for the purpose of transferring a lot by sale or gift to:

David L. Coleman, (an) immediate family member(s), and specifically my son, and is not made for the purpose of circumventing Section 19-17 of the Code of the County of James City, Virginia.

It is my intention that the deed(s) of transfer will be drawn and duly recorded as soon as reasonably possible subsequent to the approval of the plat submitted herewith.

Subscribed and sworn before me this 28th day of July.

[Signature]

Notary Public

Yook C Coleman

Owner

My commission expires 2/29/08.

RESOLUTION

CASE NO. SUP-24-06. COLEMAN FAMILY SUBDIVISION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, the applicants have requested an SUP to allow for a family subdivision in an A-1, General Agricultural, District, located at 9024 Barnes Road, further identified as Parcel No. (5-1D) on James City County Real Estate Tax Map No. (10-2); and

WHEREAS, the Board of Supervisors following a public hearing, is of the opinion that the SUP to allow for the above-mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-24-06 as described herein with the following conditions:

1. This SUP is valid for a family subdivision for the creation of one new lot of approximately 1.34 acres with one parent lot of approximately 1.78 acres remaining, generally as shown on the conceptual subdivision plat submitted with this application.
2. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
3. Only one entrance shall be allowed onto Barnes Road. A shared driveway agreement for these parcels shall be completed prior to final subdivision approval.
4. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: John E. McDonald, Manager of Financial and Management Services

SUBJECT: FY 2007 Budget Amendment - Matoaka Elementary School

Construction costs on the new Matoaka Elementary School exceed original budget estimates and previous budget appropriations by \$318,844. Of that total, \$3,756,403 is the County's share of the project costs. This assumes that \$979,618 programmed by the Schools for construction contingency can be reduced to \$710,308.

Included in the County's share of the project costs are \$585,000 in improvements that focus on an expanded community use of the facility beyond the needs of the Schools. These are costs that are not being shared with the City and include irrigation, field lighting and fencing of three outdoor fields, and bleachers in a full-size gymnasium.

Included in the shared cost of the facility, but managed separately by the County's Department of General Services, are \$960,000 in road improvements to Brick Bat and Centerville Roads.

Funding for the additional County costs is suggested from two primary sources.

The first is the reallocation of \$2.8 million that was originally budgeted from bond proceeds for a multi-use building to house the Center for Educational Opportunities (CEO), Student Services, and Records. That building has been eliminated from the School's Capital Program. After this transfer, approximately \$300,000 would remain in the multi-use building capital account for conceptual design work on two buildings now planned by the Schools – a separate CEO and a new central office building that would consolidate administrative and certain instructional functions in one location. These projects will be considered in the FY 2008 Capital Budget process.

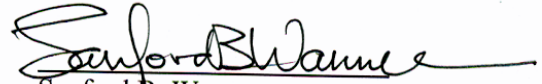
The second source is a portion of \$1,184,630 in unforeseen interest proceeds on the high school general obligation bonds. Approved by voter referendum and sold last year, \$39,820,000 in bond proceeds was placed in an interest-bearing account. The pace of spending is close to what was anticipated but the recent jump in interest rates has produced more investment income than originally anticipated and budgeted. Using this source of previously unbudgeted revenue seems appropriate to fund additional school construction costs.

The additional interest proceeds will not be fully allocated to Matoaka, leaving \$228,227. It is staff's recommendation that these funds be added to utility budgets to cover increases in costs for electricity and natural gas that were not fully anticipated in the FY 2007 operating budget. These budgets would include those for Parks and Recreation facilities, street lights, the James City-Williamsburg Courthouse, and other public buildings.

The attached resolution would amend the previously adopted FY 2007 budget, reallocate \$2,800,000 from one school capital budget to another and appropriate \$1,184,630 in additional revenue to fully fund the Matoaka Elementary School construction budget and add \$228,227 to utility budgets in the General Fund. Staff recommends approval.

John E. McDonald

CONCUR:



Sanford B. Wanner

JEM/tlc
MatoakaES.mem

Attachment

RESOLUTION

FY 2007 BUDGET AMENDMENT - MATOAKA ELEMENTARY SCHOOL

WHEREAS, the Board of Supervisors of James City County has previously budgeted funds for the construction of Matoaka Elementary School; and

WHEREAS, despite rebidding the contract, the construction contract for Matoaka Elementary School exceeded budget estimates by approximately \$4 million, with the County share estimated at \$3,756,134; and

WHEREAS, the Board of Supervisors has previously endorsed a contract award for the construction of Matoaka Elementary School and needs to identify and appropriate the needed additional funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the FY 2007 Budget and appropriates additional funds, as follows:

CAPITAL BUDGET

Revenue:

Contribution from Debt Service	<u>\$ 956,403</u>
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Expenditures:

Matoaka Elementary School	\$2,796,403
School Multi-Use Building	(2,800,000)
Matoaka Elementary School Road Improvements	<u>960,000</u>
	<u>\$ 956,403</u>

DEBT SERVICE BUDGET

Revenue:

Interest on Bond Proceeds	<u>\$1,184,630</u>
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Transfers:

Capital Budget	\$ 956,403
Operating Budget	<u>228,227</u>
	<u>\$1,184,630</u>

OPERATING BUDGET

Revenue:

Contribution from Debt Service	<u>\$ 228,227</u>
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Expenditure:

Utility Costs	<u>\$ 228,227</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

matoakaES.res

MATOAKA ELEMENTARY SCHOOL

8/24/2006

	Project Joint Costs	County Costs	Budgeted Elsewhere	Total Costs
Construction Contract - Base Bid	\$ 22,163,400		\$	22,163,400
Canopy	99,000			99,000
County Items				
Bleachers		\$ 16,000	\$	16,000
Fencing		125,000		125,000
Irrigation		114,000		114,000
Field Lighting		330,000		330,000
	\$ 22,262,400	\$ 585,000	\$ -	\$ 22,847,400
FF&E	\$ 1,080,200		\$	1,080,200
A&E	1,068,992			1,068,992
Brick Bat/Centerville Roads	960,000	County-managed project		960,000
Site Acquisition			450,000	450,000
Construction Management	380,953			380,953
Massie Site Clearing	214,696			214,696
Utility Fees	205,940			205,940
	\$ 3,910,781	\$ -	\$ 450,000	\$ 4,360,781
Contingency	979,618			979,618
TOTAL	\$ 27,152,799	\$ 585,000	\$ 450,000	\$ 28,187,799
City (9.1%)	\$ 2,452,705		\$ 40,950	\$ 2,493,655
County (90.9%)	24,500,094	\$ 585,000	409,050	25,494,144
Schools - August 2006	200,000			200,000
	\$ 27,152,799	\$ 585,000	\$ 450,000	\$ 28,187,799

County Financing Plan

	City	County
Previously County FY2006 - borrowing planned	\$	14,121,851
County FY2007 - borrowing planned		6,704,270
City - FY2006	\$ 1,504,852	
City - FY2007	671,165	
School Sites FY2006		450,000
County FY2007 - Aug 8, 2006 meeting		216,817
	\$ 2,176,017	\$ 21,492,938
Needed additional funds	\$ 317,638	\$ 4,001,206
TOTAL		\$ 4,318,844

NOTE - school buses to be acquired for both Warhill High School and Matoaka Elementary School are budgeted separately in the 2007 and 2008 Capital Budgets

Reduce project contingency from WJCC proposed \$ 979,618 to \$ 710,308 County share of reduction is (\$1 million County share currently set aside for HS contingency)	\$ 244,803
Transfer of previously budgeted and unspent funds for multi-use building	2,800,000
Excess interest on bond proceeds @ June 30, 2006	956,403
To be funded - BOS action 9/12/06	\$ 4,001,206

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: Adam R. Kinsman, Assistant County Attorney

SUBJECT: Reimbursement of Expenses Incurred When Responding to DUI and Other Traffic Violations

Attached for your consideration is a revision to the County Code that will expand the County's opportunities to be reimbursed for its emergency response expenses incurred when responding to DUI and other similar traffic violations. Currently, the County Code provides for reimbursement for expenses incurred in response to offenses related to operating a motor vehicle or watercraft while under the influence. The County must initiate a civil action to collect reimbursement for its reasonable expenses, which may be calculated on a minute-by-minute basis or via a flat fee of \$250. Personal liability is capped at \$1,000 for any particular incident.

The Code of Virginia was recently amended to expand the range of offenses for which reimbursement related to emergency response may be sought. The proposed revisions to the County Code include all of the offenses eligible for emergency response reimbursement including those related to driving a motor vehicle or watercraft while under the influence, driving without a license, driving with a suspended or revoked license, reckless driving, and improperly leaving the scene of an accident. Additionally, the County may now recover its expenses at the time of sentencing, thereby eliminating the need to initiate a separate civil action for recovery. Lastly, the Sheriff's Office has been added to the list of entities that may seek recovery. The current flat fee amount of \$250 and liability cap of \$1,000 will remain unchanged.

Staff recommends approval of the attached ordinance.

Adam R. Kinsman

CONCUR:

Leo P. Rogers

ARK/gb
Reimbursement.mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, BY AMENDING ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-29, RECOVERY OF EXPENSES FOR EMERGENCY RESPONSE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-29, Recovery of expenses for emergency response.

Chapter 13. Motor Vehicles and Traffic

Article II. Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug

Sec. 13-29. Recovery of expenses for emergency response.

~~Any person who is convicted of violating Virginia Code Sections 18.2-51.4, 18.2-266, or 29.1-738 or county code section 13-28, when his operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of any accident or incident resulting in an appropriate emergency response, shall be liable in a separate civil action to the county or to any volunteer rescue squad, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed \$1,000 in the aggregate for a particular accident or incident occurring in the county. In determining the "reasonable expense," the county may bill a flat fee of \$250 or a minute by minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law enforcement, fire fighting, rescue, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the commonwealth, to~~

~~the county, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving or operation of a vehicle as set forth herein.~~

(a) Any person who is convicted of violating any of the following provisions shall be liable for restitution at the time of sentencing or in a separate civil action to the county or to any responding volunteer fire or rescue squad, or both, for reasonable expenses incurred by the county for responding law enforcement, firefighting, rescue and emergency services, including by the sheriff's office of the county or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation:

(1) The provisions of Virginia Code Sections 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, or 29.1-738.02 when such operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of the accident or incident;

(2) The provisions of Virginia Code Section 46.2-852 et seq. relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

(3) The provisions of Virginia Code Section 46.2-300 et seq. relating to driving without a license or driving with a suspended or revoked license;

(4) The provisions of Virginia Code Section 46.2-894 relating to improperly leaving the scene of an accident.

(b) Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed \$1,000 in the aggregate for a particular accident or incident occurring in the

county. In determining the "reasonable expenses" at the time of sentencing, the county's flat fee shall be \$250 unless the county otherwise provides a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. In addition to the foregoing, the court may order as restitution the reasonable expenses incurred by the county for responding law enforcement, fire-fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the commonwealth, to the county, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle, or other conduct as set forth herein.

State law reference - Code of Va., § 15.2-1716.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

Vehicles_traffic.ord

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

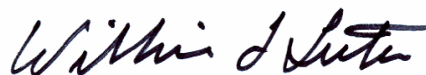
FROM: William T. Luton, Fire Chief
Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: Lease of 1,329 Square Feet of County Property to Nextel Communications of the Mid-Atlantic, Inc.

Nextel Communications of the Mid-Atlantic, Inc. ("Nextel") has applied to lease approximately 1,329 square feet of tower space on a County tower located at 9320 Merrimac Trail, Williamsburg, Virginia.

The lease as proposed has been reviewed by the County Attorney's Office and is acceptable. The initial lease term is for a five-year term with an option to renew for four additional five-year terms. Nextel proposes to indemnify and hold the County harmless and will provide insurance as required. The initial annual rent is \$24,000, with an annual increase of three percent.

Staff recommends approval of the attached resolution authorizing the County Administrator to execute the Lease Agreement between James City County and Nextel Communications of the Mid-Atlantic, Inc.



William T. Luton

Jennifer C. Lyttle

WTL/JCL/gs
nextel_1.mem

Attachment

RESOLUTION

LEASE OF 1,329 SQUARE FEET OF COUNTY PROPERTY TO

NEXTEL COMMUNICATIONS OF THE MID-ATLANTIC, INC.

WHEREAS, James City County owns a 280-foot tower ("Tower") located on James City County Tax Map Parcel No. 6010100011 and more commonly known as 9320 Merrimac Trail, Williamsburg, Virginia; and

WHEREAS, Nextel Communications of the Mid-Atlantic, Inc. ("Nextel") wishes to lease 1,329 square feet on the Tower; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease a portion of the Tower to Nextel on the terms and conditions contained in the Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the Lease Agreement between James City County and Nextel Communications of the Mid-Atlantic, Inc., for 1,329 square feet of Tower space and such other memoranda, agreements, or other documents as may be necessary to effectuate the Lease.

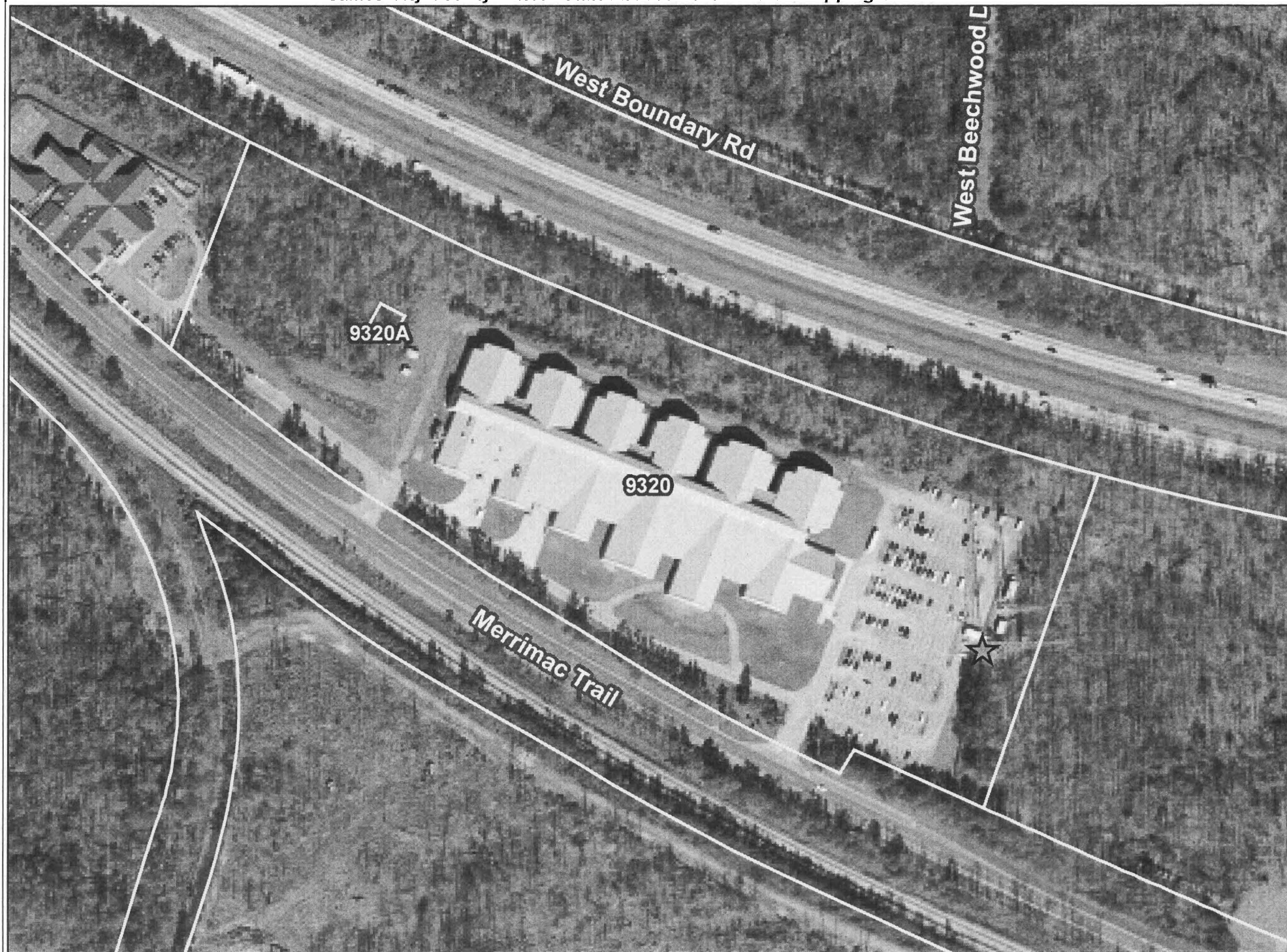
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

nextel_1.res



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1 inch equals 200 feet

0 0.03 0.06 Miles



MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

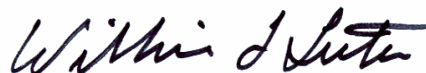
FROM: William T. Luton, Fire Chief
Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: Lease of 1,750 Square Feet of County Property to Cingular Wireless, LLC

Cingular Wireless, LLC ("Cingular") has applied for an option to lease approximately 1,750 square feet of real property and air space to build a tower at 5087 John Tyler Highway, which is more commonly known as the County Law Enforcement Center ("Property").

The option to lease as proposed has been reviewed by the County Attorney's Office and is acceptable. The initial option is for one year. At the end of one year, Cingular can exercise its option to lease the Property and build a tower on the Property. The initial term is a five-year term with an option to renew for four additional five-year terms. Cingular proposes to indemnify and hold the County harmless and will provide insurance as required. The initial annual rent is \$20,000, with an annual increase of three percent. In addition, the County shall receive 25 percent of the profit from Cingular should Cingular sublease space to other providers on its tower.

Staff recommends approval of the attached resolution authorizing the County Administrator to execute the Option and Lease Agreement between James City County and Cingular Wireless, LLC.



William T. Luton

Jennifer C. Lyttle

WTL/JCL/gs
cingulartower1.mem

Attachment

RESOLUTION

LEASE OF 1,750 SQUARE FEET OF COUNTY PROPERTY

TO CINGULAR WIRELESS, LLC

WHEREAS, James City County owns certain real property identified as Tax Parcel No. 4721500001 on the James City County Tax Map and more commonly known as 5087 John Tyler Highway, Williamsburg, Virginia, and it is operated as the James City County Law Enforcement Center ("Property"); and

WHEREAS, Cingular Wireless, LLC ("Cingular") desires an option to lease 1,750 square feet on the Property; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should enter the option to lease with Cingular on the terms and conditions contained in the Option and Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the Option and Lease Agreement between James City County and Cingular Wireless, LLC for the lease of 1,750 square feet on the Property and such other memoranda, agreements, or other documents as may be necessary to effectuate the Lease.

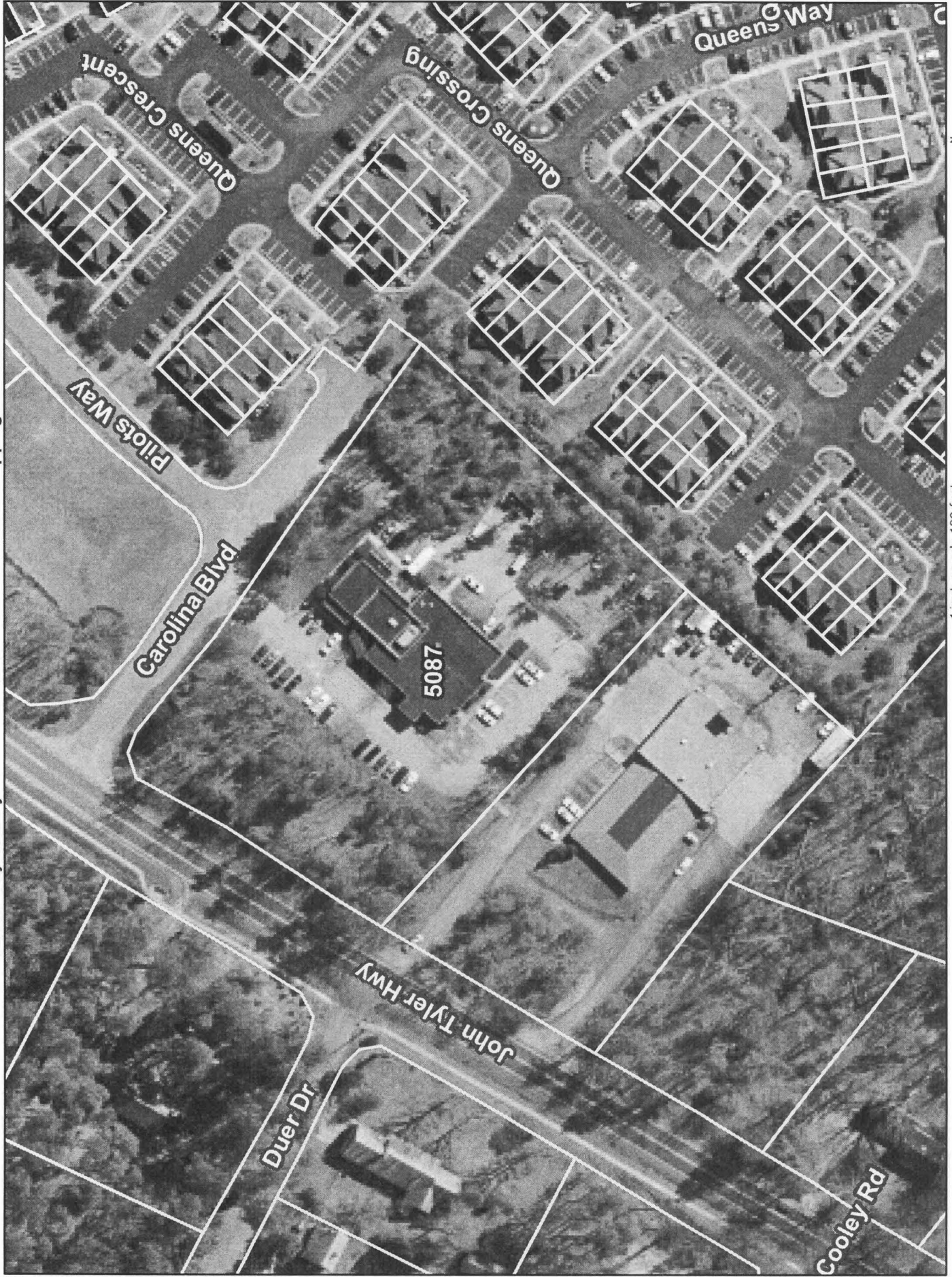
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

cingulartower1.res



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1 inch equals 100 feet
0 0.015 0.030 Miles

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

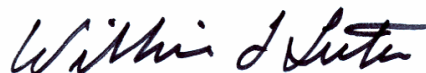
FROM: William T. Luton, Fire Chief
Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: Lease of 6,400 Square Feet of County Property to Cingular Wireless, LLC

Cingular Wireless, LLC ("Cingular") has applied for an option to lease approximately 6,400 square feet of real property and air space to build a tower at 3201 Monticello Avenue, which is more commonly known as James City County Fire Station 5 ("Property").

The option to lease as proposed has been reviewed by the County Attorney's Office and is acceptable. The initial option is for one year. At the end of one year, Cingular can exercise its option to lease the Property and build a tower on the Property. The initial term is a five-year term with an option to renew for four additional five-year terms. Cingular proposes to indemnify and hold the County harmless and will provide insurance as required. The initial annual rent is \$20,000, with an annual increase of three percent. In addition, the County shall receive 25 percent of profit from Cingular should Cingular sublease space to other providers on its tower.

Staff recommends approval of the attached resolution authorizing the County Administrator to execute the Option and Lease Agreement between James City County and Cingular Wireless, LLC.



William T. Luton

Jennifer C. Lyttle

WTL/JCL/gs
cingulartower2.mem

Attachment

RESOLUTION

LEASE OF 6,400 SQUARE FEET OF COUNTY PROPERTY TO CINGULAR WIRELESS, LLC

WHEREAS, James City County owns certain real property identified as Tax Parcel No. 3630100023 on the James City County Tax Map and more commonly known as 3201 Monticello Avenue, Williamsburg, Virginia and is operated as the James City County Fire Station 5 ("Property"); and

WHEREAS, Cingular Wireless, LLC ("Cingular") desires an option to lease 6,400 square feet on the Property; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should enter the option to lease with Cingular on the terms and conditions contained in the Option and Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the Option and Lease Agreement between James City County and Cingular Wireless, LLC for the lease of 6,400 square feet on the Property and such other memoranda, agreements, or other documents as may be necessary to effectuate the Lease.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

cingulartower2.res

James City County - Real Estate Assessment Division Mapping/GIS Section



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1 inch equals 100 feet
0 0.015 0.03 Miles



MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

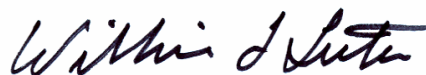
FROM: William T. Luton, Fire Chief
Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: Lease of 1,080 Square Feet of County Property to Nextel Communications of the Mid-Atlantic, Inc.

Nextel Communications of the Mid-Atlantic, Inc. ("Nextel") has applied to lease approximately 1,080 square feet of tower space on a County tower located at 1118 Ironbound Road, Williamsburg, Virginia.

The lease as proposed has been reviewed by the County Attorney's Office and is acceptable. The initial lease term is for a five-year term with an option to renew for four additional five-year terms. Nextel proposes to indemnify and hold the County harmless and will provide insurance as required. The initial annual rent is \$24,000, with an annual increase of 3 percent.

Staff recommends approval of the attached resolution authorizing the County Administrator to execute the Lease Agreement between James City County and Nextel Communications of the Mid-Atlantic, Inc.



William T. Luton

Jennifer C. Lyttle

WTL/JCL/gs
nextel_2.mem

Attachment

RESOLUTION

LEASE OF 1,080 SQUARE FEET OF COUNTY PROPERTY TO

NEXTEL COMMUNICATIONS OF THE MID-ATLANTIC, INC.

WHEREAS, James City County owns a 280 foot tower ("Tower") located on the City of Williamsburg Tax Map as Parcel No. 461-0A-00-002 and more commonly known as 1118 Ironbound Road, Williamsburg, Virginia; and

WHEREAS, Nextel Communications of the Mid-Atlantic, Inc. ("Nextel") wishes to lease 1,080 square feet on the Tower; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease a portion of the Tower to Nextel on the terms and conditions contained in the Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the Lease Agreement between James City County and Nextel Communications of the Mid-Atlantic, Inc., for 1,080 square feet of Tower space and such other memoranda, agreements, or other documents as may be necessary to effectuate the Lease.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

nextel_2.res



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1 inch equals 200 feet

0 0.03 0.06 Miles

N

MEMORANDUM

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: John Carnifax, Jr., Assistant Director of Parks and Recreation
O. Marvin Sowers, Jr., Planning Director

SUBJECT: Conveyance of Easements to the Virginia Department of Transportation and Dominion Virginia Power for the Virginia Capital Trail

The Virginia Department of Transportation (VDOT) has begun construction of the Chickahominy River Phase of the Virginia Capital Trail (VCT). This phase will extend from the Chickahominy Riverfront Park to just east of Greensprings Road where it will connect with the Greensprings Phase of the VCT. The County previously signed a right of entry agreement permitting VDOT and Dominion Virginia Power (DVP) to construct the trail and make necessary utility adjustments on several County-owned parcels. VDOT has requested that the County convey permanent and temporary easements to them and DVP for the same areas included in the right of entry agreement.

The locations of these County-owned parcels and the requested easements are depicted on the attached maps. The parcels include the Chickahominy Riverfront Park, a parcel lying between Route 5's southern right-of-way and Governor's Land near Two River's Road, and a parcel at the southeast corner of Route 5 and Greensprings Road. The parcel adjacent to Governor's Land was acquired during the rezoning and subsequent subdivision of Governor's Land for future road improvement purposes. The parcel at Greensprings Road was acquired for open space preservation in partnership with VDOT. Attached for the Board's consideration is a resolution authorizing the County Administrator to convey easements to VDOT and DVP on the following portions of County-owned land:

Chickahominy Riverfront Park Parcel:

Address/Location:	1350 John Tyler Highway
Tax ID Number:	34-30100002
VDOT Permanent Easement:	1.517 acres
VDOT Temporary Easement:	1.520 acres

Governor's Land Vicinity Parcel:

Address/Location:	1,854 feet West & 3221 feet East of Two Rivers Road
Tax ID Number:	44-20100016E
VDOT Permanent Easement:	2.137 acres
VDOT Temporary Easement:	1.286 acres
Virginia Power Permanent Easement:	0.015 acres

Greensprings Road/Route 5 Southeast Corner Parcel:

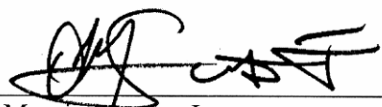
Address/Location:	3493 John Tyler Highway
Tax ID Number:	45-20100012
VDOT Permanent Easement:	0.263 acres
VDOT Temporary Easement:	0.277 acres

Conveyance of Easements to the Virginia Department of Transportation and Dominion Virginia Power
for the Virginia Capital Trail
September 12, 2006
Page 2

Staff recommends adoption of the attached resolution conveying the above easements to VDOT and Dominion Virginia Power for the construction of the Virginia Capital Trail.

John Carnifax, Jr.

CONCUR:



O. Marvin Sowers, Jr.

JC/OMS/tlc
ConvEasemnt.mem

Attachments

1. Location maps
2. Resolution

RESOLUTION

CONVEYANCE OF EASEMENTS TO THE

VIRGINIA DEPARTMENT OF TRANSPORTATION AND

DOMINION VIRGINIA POWER FOR THE VIRGINIA CAPITAL TRAIL

WHEREAS, James City County owns 140.484 acres of land commonly known as 1350 John Tyler Highway, designated as Tax Parcel No. 34-30100002, and operated as the Chickahominy Riverfront Park; and

WHEREAS, James City County owns 8.834 acres of land generally parallel and adjacent to the southern right of way of John Tyler Highway which extends 1,855 feet west and 3,220 feet east of Two Rivers Road, designated as Tax Parcel No. 44-20100016E; and

WHEREAS, James City County owns 8.067 acres of land commonly known as 3493 John Tyler Highway at the southeast corner of Greensprings Road, designated as Tax Parcel No. 45-20100012; and

WHEREAS, the Virginia Department of Transportation (“VDOT”) and Dominion Virginia Power, require as part of the construction of the Virginia Capital Trail, the following permanent and temporary easements across the following parcels:

Tax Parcel Number 34-30100002:

1.517 acres of permanent easement to VDOT

1.520 acres of temporary easement to VDOT

Tax Parcel Number 44-20100016E:

2.137 acres of permanent easement to VDOT

1.286 acres of temporary easement to VDOT

.015 acres of permanent easement to Dominion Virginia Power

Tax Parcel Number 45-20100012:

.263 acres of permanent easement to VDOT

.277 acres of temporary easement to VDOT

WHEREAS, after holding a public hearing, the Board of Supervisors agree to convey the easements needed for the Virginia Capital Trail.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the deeds and other documents necessary to convey the above-referenced property to the Virginia Department of Transportation and Dominion Virginia Power.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

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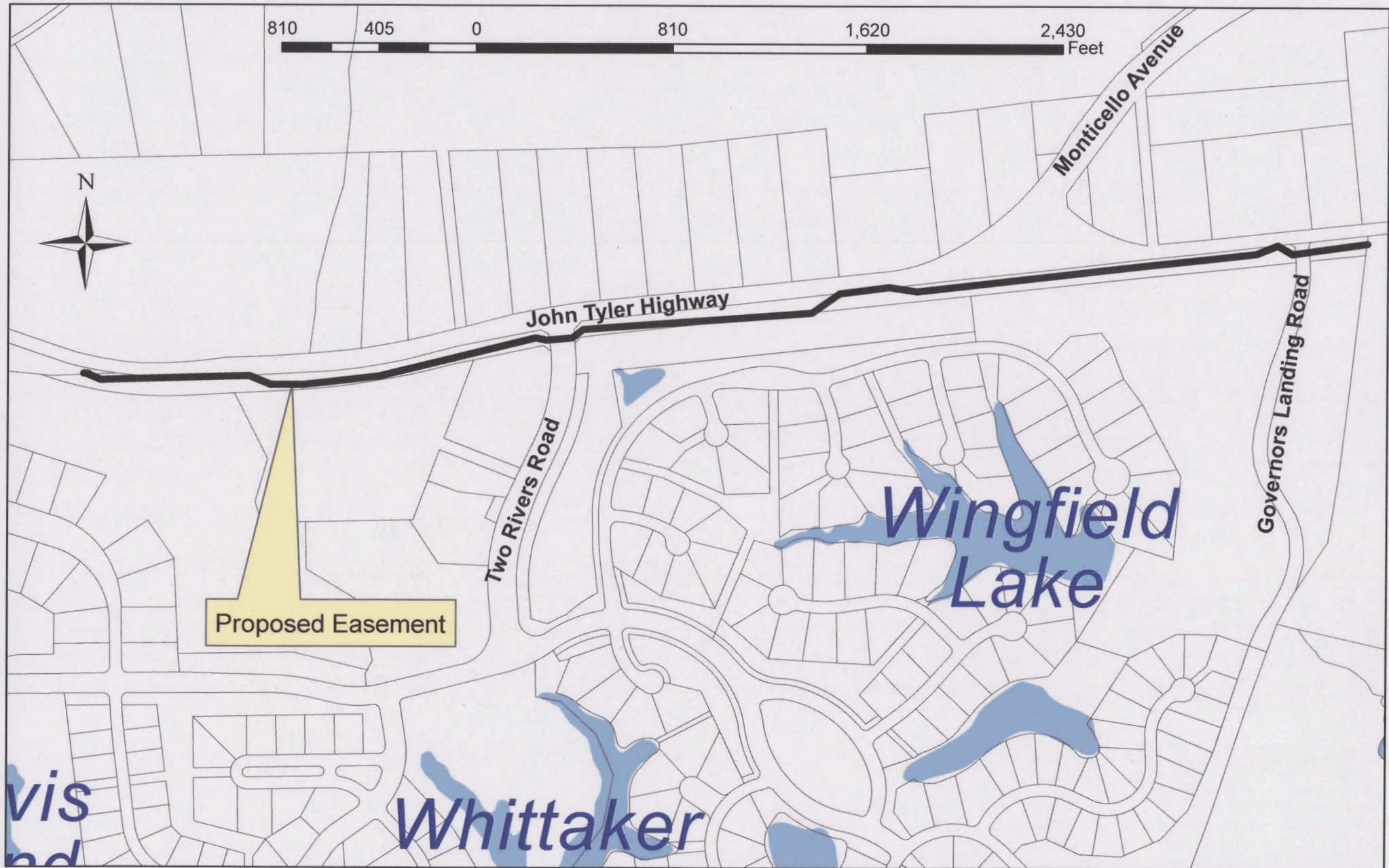
Conveyance of Easements

Tax Map ID# 3430100002

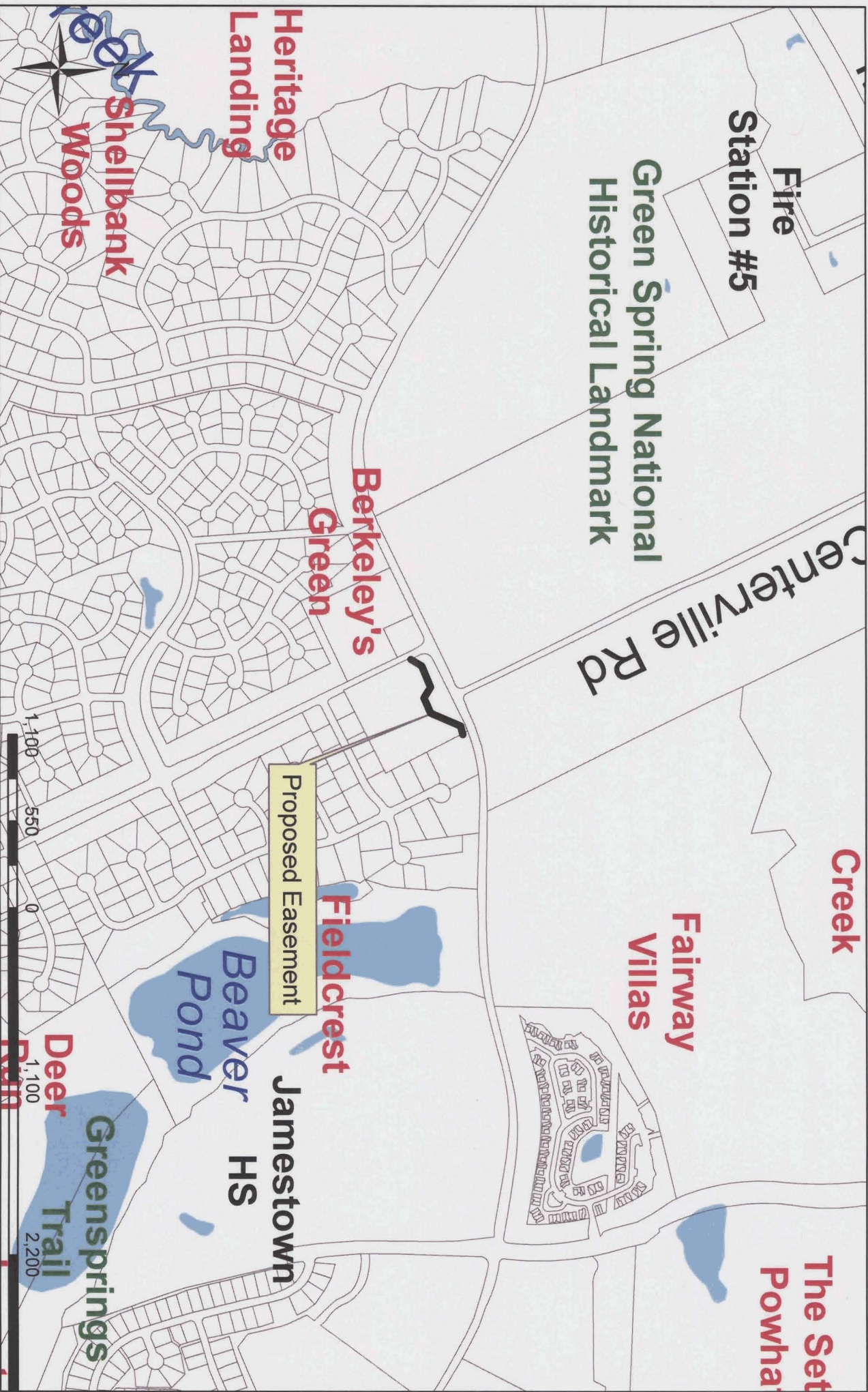


Conveyance of Easements

Tax Map ID# 4420100016E



Conveyance of Easements Tax Map ID# 4520100012



M E M O R A N D U M

DATE: September 12, 2006

TO: The Board of Supervisors

FROM: Steven W. Hicks, General Services Manager

SUBJECT: Route 60 East Project Administration Agreement

The County has been notified by the Virginia Department of Transportation (VDOT) that the County is eligible to locally administer the project. Various sections of the Code of Virginia provide localities the opportunity to administer projects financed by VDOT.

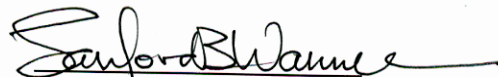
The Route 60 East project, located in the Roberts District and the Lee Hall areas of James City County and Newport News, has been a top priority of James City County for more than 10 years. On May 11, 2005, at James River Elementary School, a public hearing was held to receive comments to assist VDOT to develop alternative corridors to alleviate traffic congestion on Route 60. The proposed alignment "A" was shown at the hearing. VDOT's cost estimate to design and construct alignment "A" is \$48,087,900 with \$15,247,100 in previous funds to start the design and right-of-way process. During the design, the County will work with VDOT to consider the appropriate location and design that is safe and cost-effective within the general vicinity for the approved location alignment while adhering to Commonwealth Transportation Board (CTB) policies and procedures as well as Federal regulations.

To administer the Route 60 East project, a project administration agreement is needed between the County and VDOT. This agreement generally outlines the terms to administer the Route 60 East project. The County plans to administer the project utilizing the Public-Private Transportation Act process.

Staff recommends that the Board of Supervisors adopt the attached resolution authorizing the County Administrator authority to execute the Route 60 East project administration agreement.


Steven W. Hicks

CONCUR:


Sanford B. Wanner

SWH/tlc
Rt60AdminAgr.mem

Attachment

RESOLUTION

ROUTE 60 EAST PROJECT ADMINISTRATION AGREEMENT

WHEREAS, in accordance with the Code of Virginia to provide localities the opportunity to administer projects financed by the Virginia Department of Transportation and in accordance with the Guide for Local Administration of Virginia Department of Transportation; and

WHEREAS, the Board of Supervisors of the James City County of Virginia has expressed its desire to administer the work of the Route 60 East project located in the Roberts District from James City County Line at Newport News to 0.9 miles west of James City County line, also known as Project No. 0060-047-V11, UPC 13496.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Route 60 East project administration agreement.

Bruce C. Goodson
Chairman, Board of Supervisors

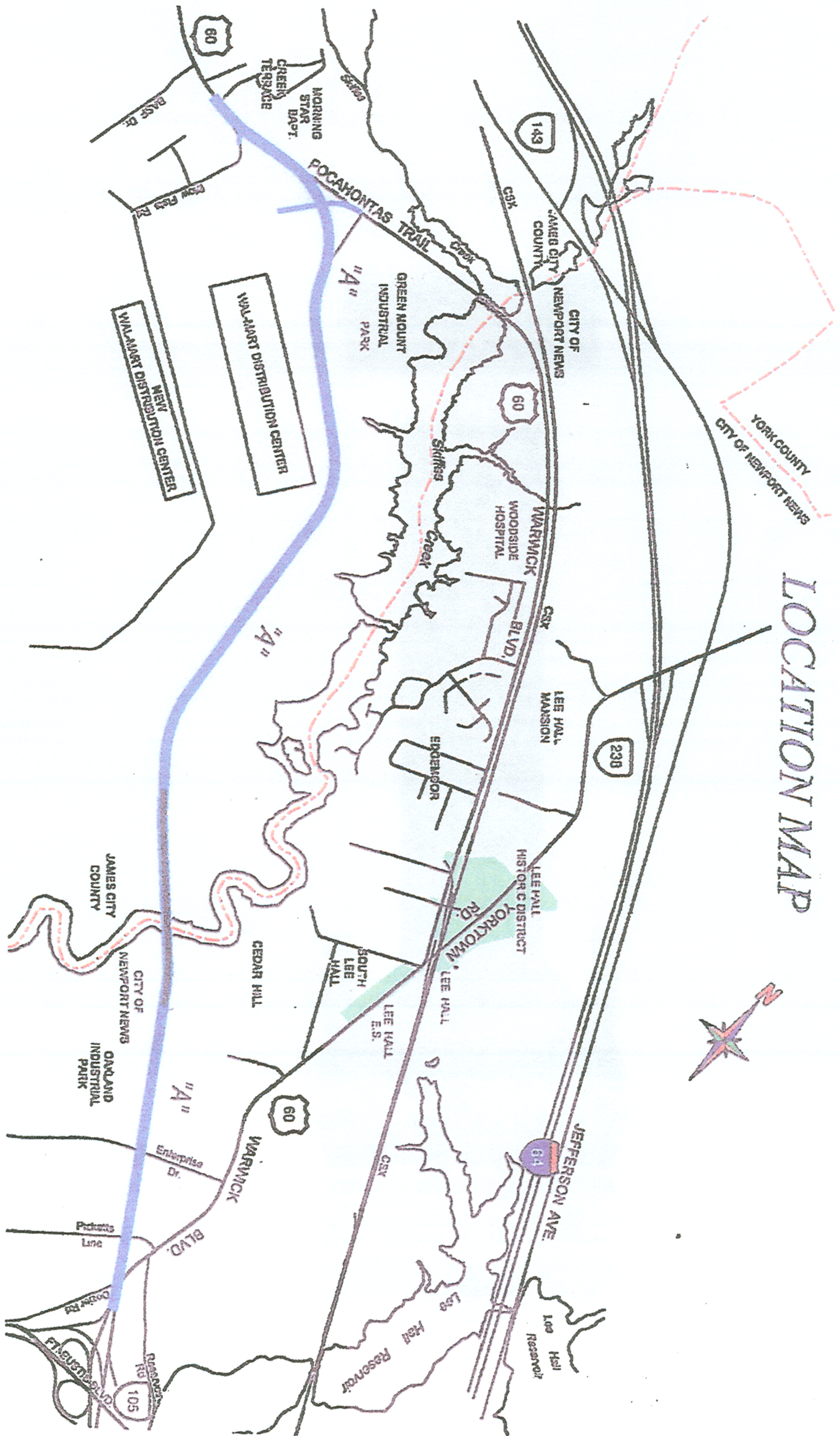
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2006.

Rt60AdminAgr.res

LOCATION MAP



STANDARD PROJECT ADMINISTRATION AGREEMENT

Project Number	UPC	Local Designation
0060-047-V11	13496	James City County

THIS AGREEMENT, made and executed this ____ day of _____, 2006, by and between the **COUNTY** of **JAMES CITY**, Virginia, hereinafter referred to as the **LOCALITY** and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the **DEPARTMENT**.

WHEREAS, the **LOCALITY** has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as a Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the **LOCALITY** will progress with the development of each Project so that any federal funds allocated to each Project may be obligated within three years of allocation to each Project in accordance with the current Statewide Transportation Improvement Program, unless otherwise specified in writing by the Department; and

WHEREAS, both parties have concurred in the **LOCALITY**'s general administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The **LOCALITY** shall:
 - a. Be responsible for all activities necessary to complete the noted phase of each Project shown in Appendix A, except the performance of the State Environmental Review Process (SERP), and coordinate with the **DEPARTMENT** for all reviews, approvals, and environmental actions and decisions, as required. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the **DEPARTMENT**.
 - b. Receive prior written authorization from the **DEPARTMENT** to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.
 - c. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for

inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project, or all such records and documentation may be turned over to the DEPARTMENT in a manner acceptable to the DEPARTMENT.

- d. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and a to-date project summary schedule tracking payment requests and adjustments.
- e. Subject to appropriation, reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.1-44 or Section 33.1-70.01 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.
- f. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
- g. Administer the Project in accordance with all applicable federal, state, or local laws and regulations.
- h. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, or local laws and regulations. If the locality expends over \$500,000 annually in federal funding, such certification shall include a copy of the LOCALITY's single program audit in accordance with Office of Management and Budget Circular A-133.
- i. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.

2. The DEPARTMENT shall:

- a. Perform the SERP and provide guidance relative to the coordination of environmental commitments that result from the SERP, provide necessary coordination with the FHWA, and approve plans, specifications, advertisement documents, and contract awards as determined to be necessary by the DEPARTMENT.

- b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.d, reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
 - c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
 - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.
 - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.
- 3. Appendix A outlines the phases of work and general items to be administered by the LOCALITY. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
 - 4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.1-94 of the Code of Virginia, 1950, as amended.
 - 5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been appropriated. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated and allocated.
 - 6. Nothing in this agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
 - 7. This agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.e, 1.f, and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

_____ OF _____, VIRGINIA:

_____ Date _____

Signature of Witness _____ Date _____

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this agreement.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

Commonwealth Transportation Commissioner _____ Date _____
Commonwealth of Virginia
Department of Transportation

Signature of Witness _____ Date _____

- Attachments**
Appendix A (list out all App A to be included, by UPC)
Appendix B (Environmental Requirements)

APPENDIX A

Project Number: 0060-047-V11 **(UPC 13496)** **Locality:** James City County

Project Narrative	
Scope:	Route 60 Relocation & Upgrading in James City County/Newport News
From:	James City County Line at Newport News
To:	0.9 Mile West of James City County Line
Locality Project Manager Contact Info: Steven W. Hicks (757) 259-4127; Email – Steven.hicks@james-city.va.us	
Department Project Coordinator Contact Info: Wendy McAbee (757) 925-2640; Email – Wendy.McAbee@VDOT.virginia.gov	

Project Costs and Reimbursement				
Phase	Estimated Project Costs	Estimated Eligible Project Costs	Estimated Eligible VDOT Project Expenses	Estimated Reimbursement to Locality
Preliminary Engineering	\$7,322,000	\$7,322,000	\$107,688	\$7,214,312
Right-of-Way & Utilities	\$5,066,900	\$5,066,900	0	\$5,066,900
Construction	\$35,699,000	\$2,858,100	\$300,000	\$2,558,100
Total Estimated Cost	\$48,087,900	\$15,247,000	\$407,688	\$14,839,312

Total Maximum Reimbursement by Locality to VDOT	0
Total Maximum Reimbursement by VDOT to Locality	\$14,839,312

Project Financing				
A	B	C	D	E
RSTP	State Match (non-formula)	<fund source C>	<fund source D>	Aggregate Allocations (A+B+C+D)
\$12,197,680	\$3,049,420			\$15,247,100

Program and Project Specific Funding Requirements
<p>This project will be administered in accordance with the "Guide for Local Administration of Virginia Department of Transportation Projects."</p> <p>Estimated eligible VDOT expenses are based on VDOT processing SERP, project plan reviews and construction inspection. Any additional assistance necessary may result in additional VDOT charges to the project.</p> <p>Previous funding = \$10,814,472 (RSTP and \$2,703,618 (State Match/Non-Formula)</p> <p>FY2007 Funding = \$1,383,208 (RSTP and \$354,802 (State Match/Non-Formula).</p> <p>An additional \$1,729,010 of RSTP and State Funding is anticipated in FY07.</p> <p>James City county has indicated their intent to administer this as a PPTA project.</p> <p>James City county is responsible for completing all environmental work necessary to construct the project, per Guide to Local Administration of VDOT Projects and Appendix B.</p> <p>James City County will need to identify the additional \$29,739,800 needed for this project.</p>

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official and date

Residency Administrator's/Urban Program Manager's
Recommendation and date

APPENDIX B

State Project: 0060-047-V11, PE101 & 0060-121-V14, PE101
Federal Project: STP-084-1 (109)
From: Blow Flats Road
To: Ft. Eustis Blvd. Interchange
County: James City
City: Newport News

Date: May 25, 2006

This following list contains the major milestone requirements that must be completed to satisfy the National Environmental Policy Act (NEPA) requirements for this project. The list should be considered supplemental to the environmental requirements found in the Guide to Local Administration of VDOT Projects. The County is urged to schedule a kick-off meeting with VDOT at their earliest convenience to ensure the successful completion of this project.

The County will be responsible for providing VDOT with the necessary information to obtain a Finding of No Significant Impact (FONSI) from the Federal Highway Administration (FHWA) for the project. Design activities, property acquisition (with the exception of hardship and protective buying, as defined in Sec. 771.117(d)), purchase of construction materials, or project construction shall not proceed until the FONSI has been approved by FHWA (as per 23 CFR 771.113(a)).

The County will be responsible for the following major environmental items which include, but are not limited to:

1. The County will be responsible for completing consultation under Section 106 of the National Historic Preservation Act. Prior to completing the Draft Environmental Assessment (DEA), VDOT identified eight archaeological sites within the Build Alternative (A). These sites are 44JC1012, 44JC1020, 44JC1021, 44JC1022, 44JC1023, 44JC1030, 44JC1032, and 44NN0060. These sites were coordinated with the Department of Historic Resources (DHR) and DHR concurred that these eight sites are potentially eligible for the National Register.

All of the archaeological sites are historic sites except 44NN0060, which is a Woodland Period domestic site. Given the nature of the site, future consultation with the Native Americans cannot be ruled out at this point. The Native Americans may request to become consulting parties in the process.

A ninth site, 44JC1025, was found to be not eligible, but the site contains an area of periwinkle that may indicate a cemetery. Therefore, the VDOT agreed with DHR to conduct the necessary fieldwork to determine if the periwinkle area contains a cemetery if site 44JC1025 was impacted by the proposed project. If a cemetery is identified and is impacted by the alignment, it would need to be addressed as per the VDOT Right of Way Manual.

The eight sites mentioned above need archaeological evaluation to determine their eligibility for the National Register and all work needs to be coordinated with DHR. The work at the potential cemetery at site 44JC1025 also needs to be done and coordinated with DHR. Beyond the archaeological evaluations, any further archaeological work (MOA, data recovery, etc.) will need to be done in consultation and coordination with DHR.

Should preparation of a Memorandum of Agreement (MOA) with DHR be necessary, the County will notify VDOT.

All reports and correspondence related to VDOT's Section 106 consultation prior to the DEA will be made available to the County under separate cover.

2. The County will be responsible for providing responses to any public comments / questions regarding the environment found in the transcript from the Location Public Hearing held May 11, 2005.
3. The County will need to update the Design Year and Design Year Traffic so that they meet the requirement of Advertisement Date plus 22 years.
4. The County will prepare a letter requesting a Finding of No Significant Impact (FONSI) for VDOT to submit to the Federal Highway Administration (FHWA).
 - a. During preliminary design work, the County should not exceed 17,100 square feet of impacts to PFO (see page 13 of DEA). There was a significant amount of coordination with the regulatory agencies (COE, EPA, FWS) between 1999 and 2005 and exceeding the amount agreed to in the DEA may jeopardize the County's ability to acquire necessary water quality permits.
 - b. After the Project Agreement has been executed, VDOT will notify the regulatory agencies that the County is responsible for acquiring the necessary water quality permits prior to construction.
5. Once a FONSI has been issued by FHWA, VDOT will relay a list of design and/or construction environmental commitments that the County will be responsible for implementing. VDOT will monitor the project while under construction to ensure the environmental commitments are implemented.
6. After the FONSI, the County will be responsible for preparing design plans to a sufficient level of detail for the entire project. These design plans (approximately 30%) will then need to be presented at a Design Public Hearing as per the VDOT Public Involvement Manual.